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Tax Alert



Robert W. Wood
THE TAX LAWYER

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Wesley Snipes Sues IRS Over Abusive \$17.5M Tax Bill, False Promise Of 'Fresh Start'

Wesley Snipes is in court with the IRS, again, and this time he has gone on the offensive. He was one of the more high profile criminal tax defendants in recent memory, facing an all-out prosecution on multiple serious felony tax evasion counts. In 2008, Mr. Snipes was [convicted of three misdemeanor counts](#) of failing to file tax returns. It was a partial victory for Mr. Snipes and partial defeat for prosecutors, since he defeated the more serious felony counts.

But he got fail time, reporting to McKean Federal Correctional Institution on December 9, 2010. He finished at an adjacent minimum security Club Fed, and was released in April 2013. During 1999 through 2001, Snipes avoided \$7 million in taxes. Snipes followed an accountant and an anti-tax advocate down a dangerous path. The advisers [claimed](#) they did not legally have to pay taxes.



Wesley Snipes at the world premiere of "Chi-Raq" at the Chicago Theatre on Nov. 22, 2015 in Chicago. (Photo by Barry Brecheisen/Invision/AP)

One of Snipes' original defenses was that he was relying on Eddie Ray Kahn and Douglas P. Rosile. They were convicted by the same jury of tax fraud and conspiracy and both got longer prison terms than Mr. Snipes. Snipes was such a well-known figure and high earner—about \$40 million from 1999 to 2004—that not paying taxes was hard to fathom.

The big victory for Snipes was that he was acquitted of felony tax fraud and conspiracy. He [didn't file false tax returns](#). But even his misdemeanor convictions meant a sentence of up to 3 years in prison, which he got. Snipes appealed, arguing that his sentence was unreasonable. He even claimed he couldn't get a fair trial in Ocala, Florida because of his race. Even the U.S. Supreme Court turned him down.

Mr. Snipes' current fight with the IRS is just about civil tax collections, which is yet another painful lesson he must endure. With many defendants convicted in tax cases, there is a spillover impact on their civil taxes. The IRS

not only wants to collect whatever it was owed in the criminal plea agreement or court order. But the IRS may send various other tax bills too, trying to leverage off the conviction. Usually, the IRS succeeds.

Mr. Snipes' current beef with the IRS appears to be of this sort. He's trying to resolve all his tax debts and move on. His lawyers have been dealing with the IRS but eventually resorted to [taking the IRS to court](#). The IRS made these assessments in 2013, going back more than 10 years:

- 1999 – \$177,263.99
- 2001 – \$2,573,977.70
- 2002 – \$1,497,644.97
- 2003 – \$4,576,925.66
- 2004 – \$5,625,612.45
- 2005 – \$3,526,946.38
- 2006 – \$5,777,543.18

All of these big tax assessments hit Mr. Snipes just as he was coming out of prison. So, Mr. Snipes requested a Collection Due Process Hearing (filing IRS Form 12153) seeking an offer-in-compromise or installment agreement. He was *trying* to work it out with the IRS. He even paid off the two amounts the IRS wanted for 1999 and 2002.

Then, he made the IRS an offer in early 2014 to settle his taxes for 2001, 2003, 2004, 2005, and 2006. By the summer of 2014, his lawyers were talking with the IRS, and sending additional documents the IRS said it needed. By March 2015, it appeared that the IRS would take \$6,416,396. But then the IRS suddenly upped its figure to \$18,116,396.

Rather than bargaining over figures, the IRS filed more notices for \$17,482,152. Mr. Snipes claims in court that the IRS is making arbitrary determinations, and abusing its discretion. After all, the whole purpose of the IRS office in compromise program is to provide a resolution that is in the best interest of the taxpayer and the government. The idea is to resolve things and move on, keeping the taxpayer in compliance.

In fact, the program seeks to provide the taxpayer with a “fresh start” toward tax compliance. The IRS launched the “Fresh Start Initiative” on May 21, 2012, in [IR-2012-53](#). This initiative revised the offer in compromise program

to make its terms more flexible. The idea was to enable more of the most financially distressed taxpayers to resolve their tax problems. Mr. Snipes wants the court to make the IRS fly right.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not intended as legal advice.