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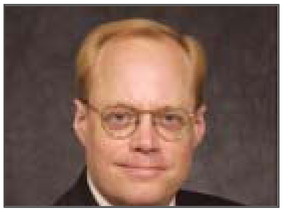

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THE TAX LAWYER

TAXES 8/30/2014

Driving Ferrari But Reporting Low Income To IRS Gets Ticket To Jail

Claiming you are destitute while you live like a king can get you into trouble with the tax man. If you get caught, you can claim you have a rich uncle. But if you can't prove it, you're still in trouble. And taxing authorities have heard just about every story in the book.

Take the case of the Italian fish trader who got a €210,000 tax bill when Italy's financial police caught him in a tax story that, well, smelled fishy. The fish merchant claimed a hard luck story—a kind of reverse fish story—on his taxes. He reported that he was earning only €900 a month, about €10,000 a year. There was only one catch.

He was already under suspicion for things that didn't jibe in his business. When the authorities went to search his home, they discovered that he had a penchant for expensive cars. Italy's tax police found an racy Ferrari in his garage worth 1,000 times his reported earnings. Turns out the putative tax cheat had a Mercedes ML320 too, according to the Italian source the Local.

Italian media reported that the businessman had also been forgetting to issue receipts to customers. That's a common sign of tax evasion and may have started the tax hounds on the scent of something smelling fishy. The same kind of thing can happen in the U.S. Virtually everything is income and the incentives to cut corners are always there. But be careful. Innocent, even *stupid* mistakes on your taxes can be forgiven, but not intentional wrongdoing.

Since taxes are complex, you might assume that just about *anything* can be called an innocent mistake. Don't. The tax law draws a line between non-willful and willful, and huge penalties or even prosecution can hang in the balance. Paying in cash and not keeping records can be mistakes. So can failing to declare income that ends up in your bank account or under your mattress.

Don't argue our tax system is voluntary either. The IRS hates this. Don't argue that wages, tips, and other compensation are not income. Avoid saying Federal Reserve Notes are not income or that only foreign-source income is taxable. This has variations, but it is what ensnared Wesley Snipes. He has been freed, but his tax lessons remain.

Don't argue that a taxpayer is not a citizen of the U.S. and thus not subject to tax laws. Avoid claiming the U.S. consists only of the District of Columbia, federal territories, and federal enclaves. Don't argue only employees of the federal government are subject to federal income tax.

Steer clear of constitutional claims too. Arguments based on the First, Fifth, Thirteenth and Sixteenth Amendments include such nice-try claims as: Taxpayers can refuse to pay income taxes on religious or moral grounds by invoking the First Amendment; Federal income taxes constitute a "taking" without due process; and compelled compliance with federal income tax laws is servitude violating the Thirteenth Amendment. These are losers, they stink like three-day-old fish.

Don't assert fictional legal theories like these: The IRS is not an agency of the U.S. (You lose.) Taxpayers are not required to file a federal income tax return because the instructions to Form 1040 and tax regulations don't display an OMB control number as required by the Paperwork Reduction Act. (No again.) Don't claim you're a church. Don't buy "un-taxing" trusts or other deals that sound like infomercials.

Be careful relying on others. This may be the most important lesson of all, but is also hard since we all must rely on advisers. Still, if something sounds too good to be true, it just may be.

Contact me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.