



Robert W. Wood

THE TAX LAWYER

TAXES 03/11/19

Tax Pointers From Manafort To Avoid IRS And Jail

First, former Trump campaign chairman [Paul Manafort was convicted on eight counts](#), the first conviction for Special Counsel Robert Mueller. Then, he was sentenced to 47 months in prison, a sentence many say was too light. Prosecutors wanted a lot more jail time, and the Sentencing Guidelines suggested that a lot more time was probable. No one wants to be jailed over taxes. And in that sense, regardless of what you think of the sentence, there are a few lessons for more regular taxpayers. Most obviously, declare all your income and foreign accounts, and don't obscure or cover up the facts. You can make mistakes, but your mistake must be credible. If there are too many oversights or glitches, you might just appear to be willful. Negligence, inadvertence, or mistake is OK. Intent to conceal or to evade taxes is not. The IRS says this, as in this statement from the IRS's Streamlined disclosure program:

“Provide specific reasons for your failure to report all income, pay all tax, and submit all required information returns, including FBARs. If you relied on a professional advisor, provide the name, address, and telephone number of the advisor and a summary of the advice. If married taxpayers submitting a joint certification have different reasons, provide the individual reasons for each spouse separately in the statement of facts.”



If you *knew* you were supposed to report, the IRS may say you were willful. What's more, the IRS uses a concept of "willful blindness."

Essentially, it is a conscious effort to avoid learning about the IRS or FBAR reporting. Willfulness involves a voluntary, intentional violation of a known legal duty. In taxes, it applies for civil and criminal violations. The failure to learn of filing requirements, coupled with efforts to conceal the facts, can spell willfulness.

What else should you avoid? Avoid setting up trusts or corporations to hide your ownership. Avoid filing some tax forms and not others. Avoid keeping two sets of books. Avoid telling your bank not to send statements. Avoid using code words over the phone. Avoid cash deposits and cash withdrawals. Even if you can explain one failure to comply, repeated failures can morph conduct from inadvertent neglect into reckless or deliberate disregard.

The IRS requires you to report your worldwide income on your taxes, and to report your foreign accounts. There might be some temptation to hidden accounts. But FBARs, the foreign bank account reporting form Manafort failed to file, have been required by law since 1970. It is very easy for the government to win FBAR cases, and the penalties--both civil and criminal--are steep, worse than tax evasion. The IRS and Justice Department took on Swiss banking, and won big in court. UBS settled with the U.S. government in 2009 for \$780 million. Since then, vast numbers of Swiss and other banks faced

criminal charges or made big civil settlements. And American taxpayers have too, with [IRS offshore account collections haul topping \\$10 billion](#). For ten years, the IRS ran its [Offshore Voluntary Disclosure Program](#), a type of tax amnesty that [formally closed on September 28, 2018](#). The IRS Streamlined program still exists, but [Streamlined cases are subject to audits](#).

Now the IRS has a [new IRS offshore account policy with bigger penalties](#). Manafort probably wishes he had cleaned up his accounts voluntarily before he was in the government's cross hairs. Another lesson is about IRS access to information, and the many avenues the IRS has to stay ahead of taxpayers. Consider [FATCA](#)—the Foreign Account Tax Compliance Act. It penalizes foreign banks if they don't hand over Americans. The vast majority of foreign countries and their banks comply, so don't count on bank secrecy anywhere. On top of FATCA, the U.S. has a treasure trove of data from 50,000 voluntary disclosures, whistleblowers, banks under investigation and cooperative witnesses. So the smart money suggests resolving your issues. You can have money and investments anywhere in the world as long as you disclose them.

This is not legal advice. For tax alerts or tax advice, email me at Wood@WoodLLP.com.