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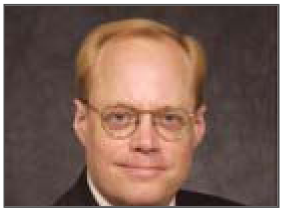

Robert W. Wood

THE TAX LAWYER

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As Amazon, Yahoo, Hulu Bid For Streaming Seinfeld, It's All About Taxes

The bidding war between Amazon, Hulu and Yahoo over Seinfeld has been covered by the Wall Street Journal and many other sources. Still, it seems hard to believe the widely circulated show can be worth $500k per episode, or $90 million for the entire deal. That is an expensive show about nothing, even if Sony has been able to make a bundle by renewing syndication deals with cable providers and local affiliates.

But maybe tax time is adding to the bidding war, since a fair number of Seinfeld episodes are about tax law. In “The Truth,” aired September 25, 1991, the IRS asks Jerry about a $50 charitable contribution to rescue the people of Krakatoa. When the charity turned out to be fake, Jerry says the IRS is “like the mafia. They can take anything they want.” That may seem overstated, but it’s true that the IRS has a lot of power. Never forget it.

The IRS has power, but there are limits. Jerry’s audit was for 1986, and the show aired in 1991. If Jerry filed his 1986 tax return in 1987, this audit was *beyond* the three year statute of limitations. In some cases, how long can IRS audit depends on you, but there are plenty of procedural safeguards if you file on time, respond to notices promptly, and keep the administrative process going.

Michael Richards, left, and Jerry Seinfeld attend the Inaugural Los Angeles Baby Buggy Fatherhood Lunch at Palm Restaurant on March 4, 2015, in Beverly Hills, Calif. (Photo by Richard Shotwell/Invision/AP)

In “The Package,” aired October 17, 1996, Kramer convinces Jerry to say his stereo was broken during shipping. Their conversation about write-offs reveals what many Americans think, as if “I’ll just write it off,” means the expense doesn’t count.

- Kramer: “It’s just a write-off for them.”
- Jerry: “How is it a write-off?”
- Kramer: “They just write it off.”
- Jerry: “Write it off what?”
- Kramer: “Jerry, all these big companies, they write-off everything.”
- Jerry: “You don’t even know what a write-off is.”
- Kramer: “Do you?”
- Jerry: “No. I don’t.”
- Kramer: “But they do, and they are the ones writing it off.”

In reality, of course, if you write off $100 and are in a 40% tax bracket, your cost is $60, not nothing.

In “The Chicken Roaster,” aired November 14, 1996, Elaine is President of the J. Peterman catalog company and makes outrageous purchases on the Peterman Account. When she buys George an

$8,000 Sable hat, Peterman's accountant complains. Elaine's response: "Isn't the President allowed to do whatever they want?" In the real world—and even on Seinfeld—the answer is plainly "no." The IRS would frown upon this, just like Peterman's accountant.

In "The Money," aired January 16, 1997, Elaine discusses the stock options she received as President of J. Peterman. Options are confusing, and as Jerry says acidly, how they work is interesting only "when it's your money." After Peterman revokes Elaine's options, the stock rose 12 points, a nice profit, laments Elaine.

In "The Summer of George," aired May 15, 1997, Kramer is hired as a seat filler at the Tony Awards. Kramer is rushed on stage with a group and accidentally awarded a Tony. Even though he wasn't part of the cast that *actually* won, Kramer might have to pay tax. Why? The producers say Kramer can keep the Tony if he fires Raquel Welch. When Kramer does he has income since he received the Tony as pay for firing Raquel Welch.

In "The Wink," aired October 12, 1995, while employed by the Yankees, George signs a birthday card for Mr. Steinbrenner. When the card winds up framed and presented, there might be gift tax. If a gift is valued at $14,000 or more, the donor must report it to the IRS. Each Yankee should arguably report a share. But intent can be scrutinized. Here, this "gift" might be to induce Mr. Steinbrenner to offer favorable contracts. If so, Mr. Steinbrenner would have to include the card's value in *his* income.

In "The Maid," aired April 30, 1998, a maid's boss avoids paying payroll taxes by making his maids independent contractors. "Whoa! Give it to the girl. I'm an independent contractor. Tax purposes!", he tells Jerry. But classifying workers is not discretionary. Employers can face taxes, interest and penalties, plus liabilities to their workers for violating the "right to control" test.

In "The Race," Jerry dates Lois, who works for Jerry's high school track adversary, Duncan. Duncan threatens to fire Lois unless she gets Jerry to race him. Duncan "controls the means of production," Lois explains. The more you control your worker, the more likely they are to be classified as an employee.

After Kramer fires Raquel Welch in "The Summer of George," she destroys Kramer's Tony. Is the Tony business or personal? Casualty and theft losses on personal assets over $100 can be claimed as an itemized deduction. Still, Kramer may not be able to claim it because the Tony's value probably doesn't exceed 10% of his adjusted gross income. However, if Kramer's *only* income is the Tony itself (after all, he doesn't work!), Kramer may be able to claim it. If Kramer can characterize the Tony as property held in a trade or business, there is no limit. Remember, he didn't*win* the Tony, he got it for firing Raquel Welch.

Perhaps Kramer could claim that Kramerica Industries owned the Tony. He founded Kramerica in "Male Unbonding," aired June 14, 1990, and it endured most of Seinfeld's nine year run. Speaking of losses, in "The Frogger," aired April 23, 1998, Peterman purchased a prized piece of cake for

$29,000—which Elaine eats. Peterman might consider the cake a business acquisition and deduct it.

In “The Sniffing Accountant,” aired October 7, 1993. Jerry and Newman suspect their accountant is “on” something. They worry his judgment is affected but are afraid to confront him. When they fire him through the mail, the mailing date becomes important because the accountant goes bankrupt.

Mailing dates sure count with the IRS. Had Jerry and Newman mailed their letter in time, they would have received the accountant’s money. Any tax return, claim or statement that must be filed with the IRS or the Tax Court is regarded as having been timely filed if it is postmarked on or before the due date.

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