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Beware New IRS Phishing Scam --Go Fish For Deductions Instead

The IRS warns of a new email phishing scam with hooks that look like they are from the IRS Taxpayer Advocate Service. They're not. The scammers say your 2013 income is being reviewed and that the [Taxpayer Advocate Service](#) will help resolve it. Just click these links! **Don't!**

Taxpayers who get these messages should not respond or click any links. Forward the scam emails to the IRS at phishing@irs.gov. For more information, visit the IRS's [Report Phishing](#) web page.

Can you phish or fish as a business? Maybe. In [Lowe v. Commissioner](#), Janice Lowe was the primary breadwinner, working full time as controller for a steel company for 38 years. Her husband Steve worked on home improvements from 1986 to 1999. And he fished.

When he attended a fishing tournament with a prize of \$6,000, it spawned his interest in tournament fishing. Believing it would be like shooting fish in a barrel, Steve took to tournaments like a fish to water. Steve competed in 26 tournaments and eked out gross income of \$4,241 in 2005. He entered 15 tournaments in 2006, and his gross income swelled to \$10,932.

That may sound like a pretty full creel. Until you look at Steve's expenses, that is. He racked up nearly \$100,000 of expenses between 2005 and 2006, losing almost \$50,000 in 2005 and \$40,000 in 2006. But was he trying to land a profit? He said he was, but the IRS thought it was a fish story.



(Photo credit: Wikipedia)

That meant Tax Court. Steve showed that he read books, magazines and newspapers about fishing. He even consulted professional fishermen seeking to improve profitability, so he was no bottom-feeder. Unfortunately, Steve's tournament track record spoke for itself.

Steve may have had the best of intentions, but his winnings were never close to covering his entry fees, let alone his travel costs or depreciation on his equipment. Steve's fishing activities seemed more recreational than business. Steve testified that his fishing started out as recreational.

But by 2005, he lamented, it was sure no fun! Professional fishing turned out to be a different kettle of fish. Despite all the points in Steve's favor, the Tax Court found that Steve really hadn't shown that he intended to make a profit.

Plus, Steve hit a major snag, a veritable underwater redwood: He consistently entered his spouse as his tournament partner.

Steve's breadwinning wife always went along and he deducted all her entry fees, but she never fished. This gave him a built-in handicap in the tournaments. By registering as a team, but with only Steve fishing, he had to catch *twice* as many fish! This conduct was inconsistent with intending to make a profit, said the court.

After considering all the factors, the Tax Court concluded that Steve's fishing activity was not for profit. That meant no deductions. Still, Steve was reasonable and the court seemed to like him. So no penalties either. This is no fish story.

You can reach 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.