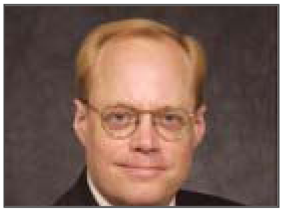
Forbes



Robert W. Wood
THE TAX LAWYER

TAXES | 3/07/2014

Buried $10 Million In Gold Wasn't Stolen After All---Until Taxes, That Is

The story of an older couple walking their dog who discovered a buried cache of $10M in gold coins made you feel good. But shortly after the story broke, some claimed the coins were stolen. Turns out there was a theft of gold coins around 1900 from the U.S. Mint in San Francisco. A one-time San Francisco Mint employee named Walter Dimmick even did time for the heist. He was convicted for stealing $30,000 in gold, coins that were never recovered.

You guessed it, it sounded like the lucky couple would have to give the gold back. If the loot was stolen from the Mint, the feds get it. Fortunately, though, the feel-good story continued. The U.S. Mint said it didn’t think these were the stolen coins and it wouldn’t be investigating. That’s great news for the couple.

It’s actually good for the IRS too, which will get a nice share. This record treasure find was comprised of more than 1,400 perfectly preserved U.S. gold coins minted from 1847 to 1894, most in nearby San Francisco. In $5, $10 and $20 denominations, their face value was more than $28,000.

(AP Photo/Reed Saxon)

Their market value is over $10 million. This is “treasure trove,” a term that actually appears in the tax law. The most famous case on treasure trove is *Cesarini v. United States*. Mr. Cesarini bought a used piano for $15 and found nearly $5,000 in cash inside. When the IRS said it was taxable income, Mr. Cesarini went to court, which agreed with the IRS. Mr. Cesarini appealed and lost again.

Since then, it’s generally assumed that treasure is taxed. Some suggest that the lucky couple might argue that they lost and later found the gold. However, the gold clearly predated the couple and their ownership of the land. And calling the gold mineral rights is a stretch too.

The bottom line is that the couple will probably have no choice but to report the value of the gold on their taxes. And California with it’s hefty 13.3% top rate alone will get a nice slice too. Although they made an astounding find, taxes can be an unpleasant surprise.

Speaking of surprises, the fact that the couple plans to donate part of the proceeds to charity raises other issues. You can only deduct charitable contributions up to 50% of your “contribution base”—generally your adjusted gross income. Thus, if you win $1 million and have no other income, you can deduct only half even if you give it all away.

The limit is even lower (30%) for gifts to certain private non-operating foundations, veterans organizations, fraternal societies and nonprofit cemeteries. You can carry over excess deductions from one year to the next, and you have five years to use it up. In the meantime, though, you are paying tax on money you've given away. Even if you give all the money to charity, you end up paying more taxes than if you had never received the cash.

Sometimes the tax rules seem so unfair it can make you feel like burying your money.

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.