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THE TAX LAWYER

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### Former U.S. Tax Court Judge Kroupa Indicted For Tax Evasion, Conspiracy, Obstruction

A former Tax Court Judge, Ms. Diane L. Kroupa is alleged to have [filed fraudulent tax returns while she was sitting as a U.S. Tax Court Judge](#). She and her husband, Robert E. Fackler, are alleged to have conspired to evade over \$400,000 in taxes. This is only an [indictment](#), and Judge Kroupa and her husband deserve the benefit of the doubt. Still, it is shocking news, and not good for the tax system as taxpayers everywhere are sitting down to do their returns.

Yes, pay attention to those penalties of perjury statements at the end. Pay attention to what may sometimes seem a slippery slope between personal and business too. And pay attention to what you and your spouse do in concert. It may not be common for a conspiracy to be between one person and his or her spouse, but that is the allegation here. Each is alleged to have conspired with the other to evade assessment of taxes. Each defendant is charged with conspiracy, tax evasion, making and subscribing false tax returns, and obstruction of an IRS audit.



Prosecutors and IRS officials are weighing in, including [U.S. Attorney Andrew Luger](#):

- 6 The allegations in this indictment are deeply disturbing. The tax laws of this country apply to everyone, and those of us appointed to federal positions must hold ourselves to an even higher standard.”

Chief Richard Weber of the IRS- Criminal Investigation:

- 6 As a former tax court judge, Kroupa dealt regularly with individuals who cheated on their taxes, which makes these allegations particularly troubling. Reporting personal expenses as business expenses on your tax returns is not tolerated, regardless of your job or position. We expect all taxpayers to follow the law—whether you are a business owner, individual, or government official—we all must play by the same rules and pay our fair share.”

[According to the indictment](#) and documents filed in court, between 2004 and 2012, Ms. Kroupa and Mr. Fackler conspired to evade their tax obligations. Ms. Kroupa was appointed to the U.S. Tax Court on June 13, 2003, for a term of 15 years, but she retired on June 16, 2014. During the same period, Mr. Fackler was a self-employed lobbyist and political consultant. He owned and operated a business called Grassroots Consulting. From 2004 to 2013, Kroupa and Fackler owned a home in Minnesota. From 2007 to 2013, they also leased a second residence in Maryland.

According to the indictment and documents filed in court, as part of the conspiracy to defraud the United States, Ms. Kroupa and Mr. Fackler fraudulently claimed personal expenses as Grassroots Consulting business deductions. The allegations go on that they fraudulently claimed personal expenses as deductible business expenses, including these: rent and utilities for the Maryland home; utilities, upkeep and renovation expenses of the Minnesota home; pilates classes; spa and massage fees; jewelry and personal clothing; wine club fees; Chinese language tutoring; music lessons; personal computers; and expenses for vacations to Alaska, Australia, the Bahamas, China, England, Greece, Hawaii, Mexico and Thailand.

According to the indictment and documents filed in court, Kroupa and

Fackler made a series of other false claims on their tax returns too. They are alleged to have failed to report approximately \$44,520 that Ms. Kroupa received from a 2010 land sale in South Dakota. Prosecutors also say that the defendants falsely claimed financial insolvency to avoid paying tax on \$33,031 on cancellation of indebtedness income.

You may be wondering how the obstruction charge came about. According to the indictment and documents filed in court, in 2006, Ms. Kroupa and Mr. Fackler concealed documents from their tax preparer and from an IRS Tax Compliance Officer during an audit. During a second audit in 2012, Kroupa and Fackler caused misleading documents to be delivered to an IRS employee in order to convince the IRS employee that certain personal expenses were actually business expenses of Grassroots Consulting. According to the indictment and documents filed in court, between 2004 and 2010, Kroupa and Fackler purposely understated their taxable income by approximately \$1 million and purposely understated the amount of tax they owed by at least \$400,000.

Judge Diane Kroupa's [C.V.](#) is still available and list considerable accomplishments:

6 *B.S.F.S. Georgetown University School of Foreign Service, 1978; J.D. University of South Dakota Law School, 1981. Prior to appointment to the Court, practiced tax law at Faegre & Benson, LLP in Minneapolis, MN. Minnesota Tax Court Judge from 1995 to 2001 and Chief Judge from 1998 to 2001. Attorney-advisor, Legislation and Regulations Division, Office of Chief Counsel and served as attorney-advisor to Judge Joel Gerber, United States Tax Court, 1984-1985. Admitted to practice law in South Dakota (1981), District of Columbia (1985) and Minnesota (1986). Member, American Bar Association (Tax Section), Minnesota State Bar Association (Tax Section), National Association of Women Judges (1995 to present), American Judicature Society (1995 to present). Distinguished Service Award Recipient (2001) Minnesota State Bar Association (Tax Section).*

Many taxpayers, perhaps especially those who appeared and had their cases decided by Judge Kroupa, may no longer be impressed, even assuming the best about this indictment.

*For alerts to future tax articles, email me at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com). This discussion is not legal advice.*