



Robert W. Wood

THE TAX LAWYER

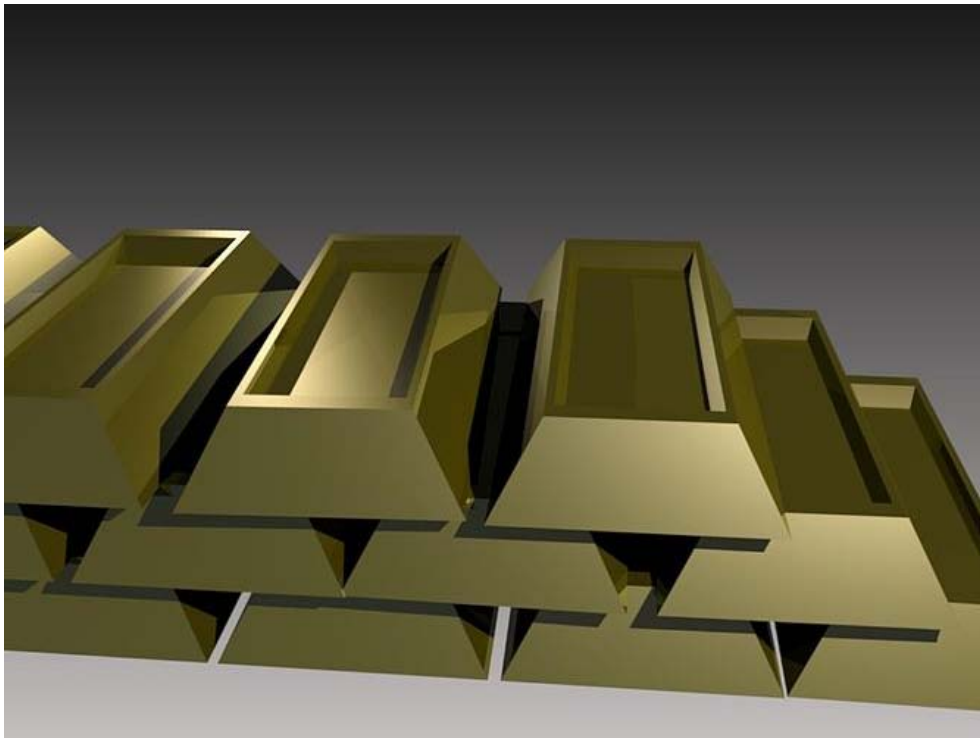
TAXES 5/06/2014

Gold Bars Pulled From 1850s Shipwreck? Taxable Says IRS

Gold ingots worth \$1.3 million dollars were recovered from an 1857 shipwreck off South Carolina's coast. The loot was painstakingly brought to the surface from the SS Central America, which lies beneath 7,200 feet of Atlantic Ocean. Also recovered were \$20 Double Eagle coins minted in 1857 in San Francisco and 1850 in Philadelphia.

The resting place of the gold was discovered back in 1988, but getting to it was tough. Besides, recovery efforts became mired in legal disputes. In all, 39 insurance companies filed claims to the recovered gold. But then finally [Odyssey Marine Exploration, Inc.](#) was able to—bring it to the surface on none other than April 15, 2014, Tax Day!

The SS Central America sank in a hurricane on Sept. 12, 1857. She went down 160 miles off the South Carolina coast. The ship was carrying 425 passengers plus gold. Now, as with any other “treasure trove”—a term that actually appears in the tax law—the IRS will get a nice share.



(Photo credit: Wikipedia)

It surprises many people that cash or valuables you find are taxed, even if you didn't really earn it. So says [Cesarini v. United States](#), a case involving a man who bought a used piano for \$15 and found about \$5,000 in cash inside. When the IRS said it was taxable income. Mr. Cesarini went to court, and lost at trial and on appeal. Does this mean the gold will be taxed?

It sure does. If you recover your *own* property, it generally shouldn't be income. Take art stolen by the Nazis and later recovered. If you can prove it's yours, it's not taxed.

But even in that kind of situation, exceptions can trigger taxes. Under the so-called "tax benefit rule," if you claimed a tax deduction for theft or loss of the property, you must include the value of the recovered property in your income when you get it back. And if the property has gone up in value in the interim, you get stuck with tax on the increased value.

If you think giving it to charity will net out the problem nicely, think again. In fact, giving to charity can make the tax problem even worse, as sometimes happens with [prize money](#). You can decline a prize and avoid all taxes. But if you accept it and *then* donate it to charity, you can't.

Then there's the mismatch issue. Even if you immediately give it to charity, you can only claim charitable contributions on your taxes up to 50% of your "contribution base"—generally your adjusted gross income. 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 charitable contribution 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. It's just another example of our terribly complex tax law.

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.