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How Far Would You Go To Save Tax Dollars? You'd Be Surprised

How far would you go to save tax dollars? Probably not too far to save \$5, but \$1,000 or \$100,000 might be different. Keep adding zeros and eventually you'll do just about anything.

Whether you filed your taxes in April or are gearing up for October 15, taxes are no fun. At tax time and year round, Americans understand that taxes direct much of what we do. Do something one way, there's a big tax. Do it another way, maybe not.

Timing matters too. It's miserable to wake up after a deal and have your adviser tell you, "If only you'd told me you were selling it, I would have suggested a _____."

Fill in the blank. Whether a 1031 exchange of real estate, an 83(b) election to convert ordinary income to capital gain, an installment sale, or electing out of installment treatment, it all matters. Small differences in form can dramatically alter your tax bill. And usually you can't go back and undo it if you didn't guess right.



(Photo credit: Wikipedia)

The IRS and the courts usually say that if you picked how to structure your transaction, too bad. You have to face the music even though you easily could have structured it differently with a much better tax result.

This feature of tax law may be universal and timeless. Maybe Roman tax collectors encountered this too. But one thing is clear, it sure is true today. And sometimes the machinations are downright bizarre.

Would you get married and immediately get divorced to save taxes? You might on these facts. The back story is that splitting property when spouses divorce is tax-free. Neither pays tax until they sell the property. But if the couple isn't actually married, you don't qualify for this tax rule.

That's why unwinding cohabitation disputes can be a tax nightmare, and one reason why same sex marriages are now easier to unwind tax-wise than before the IRS recognized them. If you're getting divorced, you'll save taxes if you were married.

Mary and Bob were divorcing and splitting millions in highly appreciated stock. But a background check revealed that Mary was still married to someone else when she and Bob had tied the knot 10 years earlier. Oops.

That was a "void" marriage under state law—not a common law marriage and simply not legal at all. It meant that if they divvied up the stock, one or both would pay a whopping tax. Savvy tax advisers came up with all sorts of maneuvers to get around this rule.

Sometimes, though, simplest is best. The couple had a quickie marriage and immediately afterward a quickie divorce. They divided the stock tax-free, and it was fine with Uncle Sam. Isn't this a sham? In some ways, sure.

But it had legal effect and was recognized by state law. Both the marriage and the divorce were legal. And the fact that it was done only to save taxes didn't matter. Ain't love grand? Ain't taxes?

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.