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Hunter Biden Criminal Tax Charges Contain Universal Tax Lessons



Hunter Biden has been charged with nine counts of failing to file and pay taxes, tax evasion, and filing false tax returns. The 56-page court filing laid out a series of charges, including allegations that the president's son failed to pay his taxes (even taxes that he admitted he owed), failed to file, evaded an

assessment and filed fraudulently. The indictment alleges that “rather than pay his taxes, the Defendant spent millions of dollars on an extravagant lifestyle.” The indictment alleges that, "Between 2016 and October 15, 2020, the Defendant spent this money on drugs, escorts and girlfriends, luxury hotels and rental properties, exotic cars, clothing, and other items of a personal nature, in short, everything but his taxes."

These are serious tax charges, and while it is unlikely that Mr. Biden would get the maximum penalty even if he is convicted on all counts, that maximum potential prison time is 17 years. For now, of course, these are only allegations, but they look imposing. "According to the indictment," Special Counsel David Weiss' office said in a news release, “Hunter Biden engaged in a four-year scheme in which he chose not to pay at least \$1.4 million in self-assessed federal taxes he owed for tax years 2016 through 2019 and to evade the assessment of taxes for tax year 2018 when he filed false returns."

As Mr. Biden and his legal team mount a defense, here are some key lessons for other taxpayers:

Report your income, and always file. You must file a tax return each year with the IRS if your income is over the requisite level. Don't forget, and don't be late either, even if you can't pay what you owe. File anyway, and you can work out payments later. The statute of limitations on audit—usually three years and sometimes six years—can't even *begin* to run until you file your return. So file, and remember, the U.S. taxes all income wherever you earn it.

Don't forget to Pay. In most cases, if you have trouble paying taxes that you admit you owe, it does not turn into a criminal case. And when failing to pay is criminal, it is often charged as a misdemeanor. Mr. Biden was charged with failure to pay (tax years 2016, 2017, 2018, and 2019) and failure to file (tax

years 2017 and 2018). A misdemeanor failure to pay can be escalated to a felony in some cases, and the issue here appears to be Mr. Biden's lavish spending on things *other* than taxes.

Watch Your Lifestyle. It's bad enough if you are skirting your tax obligations. But, if you are doing that and simultaneously living lavishly, it can look even worse. It is hard to say what was the biggest issue in Hunter Biden's indictment, but it might be this one. It is a common theme of big ticket criminal tax cases when the defendant is living very large but not pay his or her taxes.

Be accurate, too. Failing to file is bad, but filing false returns can be worse. The criminal law seems to set that pecking order. Remember, Wesley Snipes was [convicted of three misdemeanor counts](#) of failing to file tax returns, and misdemeanors carry lower penalties than felonies. Filing falsely is a felony. You have to file, but make your return as complete and accurate as you can.

Transparency is good, secrecy is bad. Hiding things nearly *always* looks bad. You might have good reasons to hide things from competitors, an ex-spouse, etc. But don't hide from the *government*. Even if there is a good reason to hide ownership from the public, make sure the ownership is not hidden from the *government*. Report your entities on your tax return, and file returns for them where required.

Don't obstruct the IRS. Don't engage in evasive or obstructionist behavior on your returns, or during an IRS audit. Many taxpayers in a civil audit seem to think that they can outsmart the IRS or manipulate the government to come out ahead. That doesn't mean you have to agree with everything the IRS says in an audit. However, there is an established way of proceeding, and an above-

board way to communicate with the IRS. Deception and obstruction are not the way.

Don't be willful. According to the IRS, willfulness is a voluntary, intentional violation of a known legal duty. You may not have *meant* any harm or to cheat anyone, but that may not be enough. Besides, in some cases mistakes are hard to argue were truly innocent. The failure to learn of filing requirements, efforts to conceal, etc., may mean that a violation was willful. Even willful blindness, a kind of conscious effort to avoid learning about reporting requirements can be enough.

Report foreign accounts and assets too. If you have an interest in any foreign bank, securities, or other financial accounts, pay attention. Even a signature power is enough, even if it is not your money. You must file an annual FBAR if the aggregate value of the accounts at any point in the calendar year exceeds \$10,000. Penalties are huge, and can swallow entire accounts (yes, 100%). Criminal penalties can include up to 10 years in prison. Remember Form 8938 (for FATCA) and 5471 (for foreign companies) too. If you [forget these forms, your IRS audit statute of limitations never runs.](#)

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