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IRS Tax Lessons For Everyone From Paul Manafort Indictment

The criminal charges filed against former Trump campaign manager Paul Manafort and Richard Gates are serious. They are only accusations at this point. All criminal defendants are presumed innocent until they are proven otherwise in a court of law. Still, the 12-count 31-page indictment [here](#) is a daunting list of accusations. Manafort and Gates stand accused of conspiracy against the United States, conspiracy to launder money, failing to report foreign bank and financial accounts, acting as an unregistered foreign agent, and making false statements. It's tough to unpack most of those charges. Even so, there's a lot in it from which

regular taxpayers can learn about how to handle their own taxes and the IRS.



Report Your Income, don't file falsely. You must file a tax return each year with the IRS if your income is over the requisite level. And remember, the U.S. taxes all income wherever you earn it. Filing false returns is

even worse than failing to file. Wesley Snipes was [convicted of three misdemeanor counts](#) of failing to file tax returns, while filing falsely is a felony. You have to file, but make your return as complete and accurate as you can.

Don't Obstruct the IRS. The indictment charges Manafort and Gates with giving false answers. Whether it is the FBI or the IRS asking questions, don't lie to the government. And don't engage in evasive and obstructionist behavior during an IRS audit. Many taxpayers in a civil audit seem to think 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. Yet, there is an established way of proceeding, and an above-board way to communicate with the IRS. Deception and obstruction are not the way.

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*. The indictment of Manafort and Gates accuses them of secret deals and accounts. For other examples, just look at how much trouble soccer stars Ronaldo Messi and Cristiano Ronaldo had over their secret tax structures. The secrecy *itself* was a major reason they faced criminal tax problems. Messi and his father had companies registered in the UK, Switzerland, Uruguay and Belize. It did not help that Messi's name also came up in the Panama Papers. Even if there is a good reason to hide ownership from the public, make sure the ownership is not hidden from the *government*.

Careful With I Didn't Understand. 'Gee, I didn't understand that,' seems to feature in many criminal tax cases. But the defense does not always work. One of Messi's primary defenses in his criminal tax evasion trial was that he *did not understand*. He said he signed many documents without reading them. If Manafort or Gates try to use this defense, it may not work for them either.

Don't Be Willful. Willfulness means you acted with knowledge that your conduct was unlawful. 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. The failure to learn of filing requirements, coupled with efforts to conceal, may mean that a violation was willful. Even willful blindness, a kind of conscious effort to *avoid* learning about reporting requirements, can be enough. Accountability and transparency are nearly universal lessons.

Report Foreign Accounts. If you have an interest in any foreign bank, securities, or other financial accounts, pay attention. Even a signature power is enough, although it is not your money. For all of these, 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. Much of the Swiss bank controversy of the last 10 years—which netted the IRS over \$10 billion—came down to these little forms. FBAR penalties can swallow entire accounts (yes, 100%), and criminal penalties can include up to 10 years in prison. The indictment says that Manafort and Gates told their tax professionals they did not have foreign accounts. The indictment says both men willfully failed to file the forms.

Disclose Foreign Assets Too. The IRS requires worldwide reporting and disclosure, and the consequences of noncompliance can be severe. [FATCA](#), the Foreign Account Tax Compliance Act, requires foreign banks to reveal American accounts holding over \$50,000. Some asset disclosures may be duplicative with FBARs, but it is best to over-disclose. There is never a penalty for going overboard in disclosures. With a treasure trove of data, the IRS now has the ability to check. The resources of the U.S. government are vast, and using entities that look secret can make innocent activity [willful](#).

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. The indictment of Manafort and Gates says that the pair hid assets for their personal use. According to the indictment, Manafort "used his hidden overseas wealth to enjoy a lavish lifestyle in the United States, without paying taxes on that income." The indictment says that Manafort "spent millions of dollars on luxury goods and services for himself and his extended family through payments wired from offshore nominee accounts to United States vendors." The indictment claims that he did not report and pay taxes on the income.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not legal advice.