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Man Finds 9-Carat Diamond. IRS Finds—And Taxes—Man

It's nice to read a feel-good story like the one about an Arkansas man who found a massive 9-carat diamond in a public state park in Arkansas. Thirty-three year old Kevin Kinard found the 9.07 carat whopper in the Crater of Diamonds State Park on Labor Day. It is the second-largest ever found at the park, the biggest being a 16.37-carat stone found in 1975, which was also the biggest diamond *ever* uncovered in the U.S. Mr. Kinard gets to hang on to his big find, since visitors who find diamonds or other minerals at the site are allowed to keep them.

The stone has not yet been appraised, but whatever the massive diamond turns out to be worth, does Mr. Kinard *really* have to worry about looking over his shoulder for the IRS? Yes, that's the not so feel-good part of the story. According to the IRS, money or valuables you find are taxed, even if you just happen upon something by pure luck, and even if you don't sell it to turn it into cash.

In fact, when it comes right down to it, just about *everything* is fair game for the IRS. So whether it is diamonds you find, gold bars or nuggets you discover, or just about anything else, it's taxable according to *Cesarini v. United States*. That was a tax case involving a man who bought a used piano for $15, and found $5,000 in cash inside. When the IRS said it was taxable income, Mr. Cesarini went to court to push back on Uncle Sam's cash grab, but the IRS won. The IRS calls finds like this "treasure trove" and says you have to value it and declare it as income. So some people even have to sell their discovery to be able to pay the tax.

About the only way a recovery is tax-free is if you recover your *own* property, something like art stolen by the Nazis and later recovered. If you can prove it's yours and you are just getting it back, it should not be taxed. But even then, under the "tax benefit rule," if you originally 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.

You might think that giving your find to charity would fix the tax problem neatly, but the IRS has an answer there too. In fact, giving to charity can make the tax problem 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. 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 another example of our complex tax laws, and the many tax traps you might encounter.

Check out my website.