



Robert W. Wood

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More Tax Defenses: “I Forgot!”

I recently wrote—with tongue in cheek—about [attention deficit disorder](#) (ADD) as a defense to tax crimes. I was reminded that ADD and its cousin ADHD are no laughing matter. Plus, such defenses are not without precedent.

There’s case law treating a mental problem or substance abuse as a [defense](#) to criminal tax offenses. Compared with the once successful [Twinkie defense](#), the “I have ADD” defense surely makes more sense.

Happily, few people are accused of [tax crimes](#). Yet many face tax penalties of one sort or another. Apart from tax crimes, numerous frightening tax problems include [civil penalties](#). Many can be whoppers, including the 75% civil fraud penalty and the 100% trust fund recovery assessment.

For those without a fancy diagnosis, some excuses may be considerably more basic than ADD. Take the “[I forgot](#)” defense popularized by Steve Martin on Saturday Night Live. Here is his shtick:

You can be a millionaire...and never pay taxes! You can be a millionaire, and never pay taxes!” You say, “Steve, how can I be a millionaire, and never pay taxes?” First, get a million dollars.

Now, you say, “Steve what do I say to the tax man when he comes to my door and says, ‘You have never paid taxes’? Two simple words. Two simple words in the English language: “I forgot!”

How many times do we let ourselves get into terrible situations because we don't say "I forgot"? Let's say you're on trial for armed robbery. You say to the judge, "I forgot armed robbery was illegal." Let's suppose he says back to you, "You have committed a foul crime. You have stolen hundreds and thousands of dollars from people at random, and you say, 'I forgot'?" Two simple words: "Excuuuuuse me!!"

Despite Mr. Martin's persuasiveness, it doesn't appear that the "I forgot" defense has received much attention in tax cases.

For more information see:

[Ignorance is Bliss, Especially for the Tax Evader](#)

[Frequently Asked Questions For Past Due Return Filers](#)

[IRS Tax Topic 653 – IRS Notices and Bills, Penalties and Interest Charges](#)

*Robert W. Wood practices law with [Wood & Porter](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009, [Tax Institute](#)), he can be reached at wood@woodporter.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*