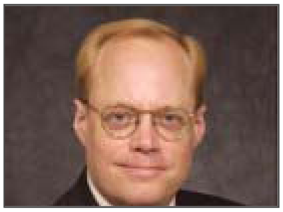

Robert W. Wood
THE TAX LAWYER

TAXES | 10/24/2013

Sophia Loren Jailed In 1974 Tax Evasion, Finally Wins Case

Italy's iconic actress Sophia Loren is now 79. The tax evasion charges staining her name? Almost as old. Italian tax officials claimed she fudged her taxes—criminally—in 1974.

Actress Sophia Loren makes an appearance at the opening of the Damiani flagship store in Element Mall, West Kowloon on Apr. 20, 2013 in Hong Kong. (Image credit: Getty Images via @daylife)

Although Ms. Loren was a worldwide jet-setter in those years, she voluntarily surrendered in Italy and went to jail in 1982. She only served 17 days of a 30 day jail sentence. She claimed that her deceased tax preparer had erred, and she's been fighting ever since. But not in vain.

The Rome-based Court of Cassation has now ruled that Ms. Loren was right when she calculated tax on her 1974 income. Under Italian tax law in 1974, her advisers calculated that she owed tax on 60% of her income. Tax officials said it should have been 70%, but the court ***finally*** ruled otherwise.

Wouldn't the statute of limitations have run? Not usually. A variety of things can stop the statute of limitations or "toll" it so it stops running. For example, the IRS usually has three years after you file to audit you. If you omit more than 25% of your income or your violation involves offshore accounts, the IRS gets double that time, six years. See Beware Longer IRS Statute Of Limitations On Foreign Accounts.

But frequently, the IRS says it needs more time to audit and asks you to sign a form extending the statute, usually for a year. Most tax advisers generally advise clients to agree. If you file a false return under-reporting income or willfully fail to file, the statute is six years after the return is filed, or from the time you willfully ***failed to file***.

In a case of alleged criminal tax evasion, that means the statute hasn't run if the taxpayer is indicted within six years after "willfully attempting in any manner to evade or defeat any tax or the payment thereof." The statute is "tolled"–so stops running if the target is outside the U.S. or is a fugitive. What's more, ***when*** the alleged tax crime is committed can be hard to pinpoint.

Does filing a false return start the six year clock? What about failing to file by the due date? How about covering it up later, hiding money, or lying about it? These can be tough questions to answer.

Some courts have concluded that the six year statute doesn't even ***start*** to run until the last act of tax evasion. In *United States v. Irby*, the court held the six year statute began to run on the last act of evasion. Mr. Irby used nominee trusts to conceal his assets many years after he failed to file.

Mr. Irby may have thought he only had to worry for six years. Actually, though, his use of nominee accounts delayed when his six years commenced. That meant he could still be indicted, prosecuted and convicted. People often say that the statute of limitations ***never*** runs on fraud. For civil tax fraud, it's true, the IRS can come after you any time.

But it's still rare for the IRS to go back too far. Problems of proof are too great, and the IRS bears a high burden of proof in fraud cases, even civil fraud. Timing may not be everything, but it's terribly important in tax cases. The IRS has the memory and tenacity of Sophia Loren.

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.