



Robert W. Wood

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Subway Shop Owner's Off Books \$6M Tax Evasion Gets Prison, Millions In Restitution

Obayedul Hoque, a Subway franchisee and resident of Alexandria, Virginia, has been sentenced to two and one half years in prison for conspiracy to defraud the United States. After his 30 month prison term, he will have two years of supervised release. Hoque was also ordered to pay a \$20,000 fine, plus a whopping \$2,022,106 in restitution to the IRS to cover his tax liabilities for 2008 through 2013.

Some parts of his tax scam were ingenious, but much of it came down to collecting a lot more in income than he actually reported to the IRS. There was about a \$6 million shortfall, and his own records apparently did him in. Keeping two sets of books is one of the most classic badges of tax evasion there is. And Hoque ran a large enough operation that he had to have help in doing it.



Hoque owned and operated Skyhill Shell, a service station in Alexandria, Virginia. Plus, he operated multiple Subway restaurant franchises in Washington, D.C., Arlington, Virginia, and Alexandria. Hoque admitted that between 2008 and 2014, he and the managers of some of his Subway franchises and the gas station shorted the IRS. They simply did not deposit all of the gross receipts of the gas station or the Subway franchises into the corporate or partnership bank accounts.

Instead, Hoque and the managers retained a portion of the gross receipts for their personal benefit and failed to report those funds to the IRS. Skimming is frowned on by the IRS and by prosecutors. For the Subway franchises that had no co-conspirator managers, Hoque retained all of the unreported gross receipts for himself. From 2008 through 2013, point of sales records for the Subway franchises reflected total sales of \$20,805,667.

However, Hoque and his co-conspirators provided false monthly sales figures to the accounting firm to prepare the Subway entities' tax returns. As a result, Hoque and his co-conspirators caused false corporate and partnership tax returns to be filed for the Subway franchises which reported sales of only \$14,377,696.

Hoque and his co-conspirators also filed false corporate tax returns for Skyhill Shell. For some years, some of the entities did not even file tax returns with the IRS. Additionally, Hoque filed false individual income tax returns with the IRS. Hoque admitted that his conduct caused a tax loss to the IRS of between \$1.5 million and \$3.5 million.

Is keeping two sets of books ever justified? Yes, and it is more common than you might think. Keeping two sets of books—or two sets of accounting records—can distinguish between income tax rules and accounting rules. Some people refer to this distinction as the difference between book purposes (which means accounting) and tax purposes.

It's also true that there can be significant differences between a company's accounting and tax records. But the kind of under-reporting and cash skim being conducted by Mr. Hoque is quite different. And remember, Al Capone famously kept two sets of books, and we all know how that turned out.

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