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Universal Tax Lessons (Even For President Trump) In Michael Cohen Guilty Plea

The guilty plea and sentencing memorandum by President Trump's former fixer Michael Cohen have some big tax lessons, but they are surprisingly universal. The hunt for Mr. Cohen started in earnest when the feds searched his office and home. It is a rare treat for investigators to comb through files in a normally off-limits attorney’s office. Soon thereafter, Mr. Cohen said he would take the Fifth. It wasn't long after that when he ended up pleading guilty to campaign violations. He also pleaded guilty to income tax evasion and lying to federally insured banks. Here are a few takeaways, that are actually pretty simple when you think about it.

Report All Your Income. You must file a tax return every year with the IRS if your income is over the minimum level. Remember, the U.S. taxes all income wherever you earn it. You have to file, but make your return as complete and accurate as you can. Filing false returns is even worse than failing to file. Remember Wesley Snipes? He was convicted of three misdemeanor counts of failing to file tax returns, but he escaped the more serious felony charges.

Don’t Be Willful. Everyone can make mistakes, but 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.

Don’t Obstruct the IRS. Some people end up in criminal tax trouble simply because they mishandle a *civil* IRS audit. Whether it is the FBI or the IRS asking questions, don’t lie. And don’t engage in evasive or obstructionist behavior during an IRS audit. Many taxpayers in a civil audit 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. But, 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, Good; Secrecy, Bad. Hiding things nearly *always* looks bad. You might have good reasons to hide things from competitors, an ex-spouse, etc. Remember 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 charges. Even if there is a good reason to hide ownership of entities 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. With executives and professional people, it is less likely to 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. He is an athlete, not sophisticated in financial matters, but it was still not enough to get him off the hook.

Report Foreign Accounts. If you have an interest in any foreign bank or other financial account, pay attention. A mere signature power is enough, even if it is not your money. You must file an annual FBAR form if the aggregate value of the accounts at any point in the calendar year exceeds $10,000. Penalties are huge. The Swiss bank controversy of the last 10 years netted the IRS over $10 billion. Much of it came down to these little FBAR forms. FBAR penalties can swallow entire accounts (100% or more), and criminal penalties can include up to 10 years in prison. And with FATCA, foreign banks are revealing American account holders. The resources of the U.S. government are becoming even more vast.

Watch Your Lifestyle. If you are skirting your tax obligations and living lavishly, you may be a big target. These were some of prosecutors claims against Paul Manafort. The indictment said 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. Some athletes, entertainers, and high income individuals have faced similar claims.

This is not legal advice. For tax alerts or tax advice, email me at Wood@WoodLLP.com.