

The Life Cycle of a Criminal Tax Case

Presented by:

Eric L. Green, Esq.

Sharon L. McCarthy, Esq.

Maria Papageorgiou, IRS-CI

Kristina Rico, Esq., IRS



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SKLARZ** LLC

How do criminal tax cases begin?

- Many begin as non-tax federal grand jury or other criminal investigations
 - tax fraud is the add-on and sometimes the easiest to prove
 - Examples: Department of Labor, State Revenue Cases, Mortgage Fraud, etc
- Structuring investigations - filing of CTRs and SARs triggers investigation; IRS is charged with investigating financial crimes under titles 26 and 31
- Civil Exams
- Civil Collections

How do criminal tax cases begin?

- Fraud referrals from
 - Exams
 - Collection Cases
 - Whistleblowers/Ex-Spouses
 - Disgruntled ex-employees
- Bank Secrecy Act (BSA) Exams
 - IRM Section 4.26.6 – IRS is tasked with reviewing bank compliance with anti-money laundering laws
- Other Agencies

Exams

- Civil Exam where examiner believes they have “firm indications of fraud”
- Examples include:
 - Significant unexplained differences in deposits vs. reported revenue
 - Significant, unexplained increases in net worth
 - Taxpayer is performing actions that would lead the examiner to believe there is criminal activity – check cashing, structuring deposits, 2nd set of book, dealing only in cash, etc.
 - Taxpayer and/or taxpayer's representative has made affirmative misrepresentations in the course of the audit
- Collection

New Offices

- Office of Promotor Investigations
 - Lois Deitrich, Director
- Office of Fraud Enforcement
 - Katherine Fox, Acting Director
- National Fraud Counsel
 - Carolyn Schenck



Once the case arrives in CI?

- Administrative vs Grand Jury
- District by District
- Issues with witnesses (subpoenas)?
- Who is the potential target?

Once the case arrives in CI?

- First steps – where did the referral come from?
- Evaluate what information is available
- Verify what is being alleged?
- Crime Committed?

The Role of Chief Counsel

- Support the CI Special Agents in the field
- Review cases for criminal determination
- Review special agent reports, plea agreements, warrants, etc
- They DO NOT prosecute cases

Role of DOJ

- Tax charges need to be authorized by DOJ Tax
- Have the opportunity for a conference
- Other crimes do not (ie. Title 31 FBAR Charges)

Role of the United States Attorney

- Grand Jury Investigation
- Prosecution (prosecute or not)
- Proffer and/or Reverse Proffer

Tax Loss Table

§2T4.1. Tax Table

	<u>Tax Loss (Apply the Greatest)</u>	<u>Offense Level</u>
(A)	\$2,500 or less	6
(B)	More than \$2,500	8
(C)	More than \$6,500	10
(D)	More than \$15,000	12
(E)	More than \$40,000	14
(F)	More than \$100,000	16
(G)	More than \$250,000	18
(H)	More than \$550,000	20
(I)	More than \$1,500,000	22
(J)	More than \$3,500,000	24
(K)	More than \$9,500,000	26
(L)	More than \$25,000,000	28
(M)	More than \$65,000,000	30
(N)	More than \$150,000,000	32
(O)	More than \$250,000,000	34
(P)	More than \$550,000,000	36.

Sentencing Table

SENTENCING TABLE
(in months of imprisonment)

Offense Level	Criminal History Category (Criminal History Points)					
	I (0 or 1)	II (2 or 3)	III (4, 5, 6)	IV (7, 8, 9)	V (10, 11, 12)	VI (13 or more)
Zone A	1	0-6	0-6	0-6	0-6	0-6
	2	0-6	0-6	0-6	0-6	1-7
	3	0-6	0-6	0-6	2-8	3-9
	4	0-6	0-6	2-8	4-10	6-12
	5	0-6	0-6	1-7	4-10	6-12
	6	0-6	1-7	2-8	6-12	9-15
	7	0-6	2-8	4-10	8-14	12-18
	8	0-6	4-10	6-12	10-16	15-21
Zone B	9	4-10	6-12	8-14	12-18	15-21
	10	6-12	8-14	10-16	15-21	18-24
	11	8-14	10-16	12-18	18-24	21-27
Zone C	12	10-16	12-18	15-21	21-27	24-30
	13	12-18	15-21	18-24	24-30	27-33
	14	15-21	18-24	21-27	27-33	30-37
	15	18-24	21-27	24-30	30-37	33-41
	16	21-27	24-30	27-33	33-41	37-46
	17	24-30	27-33	30-37	37-46	41-51
	18	27-33	30-37	33-41	41-51	46-57
	19	30-37	33-41	37-46	46-57	51-63
	20	33-41	37-46	41-51	51-63	57-71
	21	37-46	41-51	46-57	57-71	63-78
Zone D	22	41-51	46-57	51-63	63-78	70-87
	23	46-57	51-63	57-71	70-87	77-96
	24	51-63	57-71	63-78	77-96	84-105
	25	57-71	63-78	70-87	84-105	92-115
	26	63-78	70-87	78-97	92-115	100-125
	27	70-87	78-97	87-108	100-125	110-137
	28	78-97	87-108	97-121	110-137	120-150
	29	87-108	97-121	108-135	121-151	130-162
	30	97-121	108-135	121-151	135-168	140-175
	31	108-135	121-151	135-168	151-188	151-188
	32	121-151	135-168	151-188	168-210	168-210
	33	135-168	151-188	168-210	188-235	188-235
	34	151-188	168-210	188-235	210-262	210-262
	35	168-210	188-235	210-262	235-293	235-293
	36	188-235	210-262	235-293	262-327	262-327
	37	210-262	235-293	262-327	292-365	292-365
	38	235-293	262-327	292-365	324-405	324-405
	39	262-327	292-365	324-405	360-life	360-life
	40	292-365	324-405	360-life	360-life	360-life
	41	324-405	360-life	360-life	360-life	360-life
	42	360-life	360-life	360-life	360-life	360-life
	43	life	life	life	life	life

Sentencing Advocacy

- 18 USC 3553 – 7 factors
- Tax loss is only one factor
- Role of the Kovel accountant

Civil Fallout

- Restitution (cannot be compromised)
- Fine
- Civil Assessment
- 75% civil fraud penalty
- Interest

Questions

Eric Green: (203) 285-8545

Sharon McCarthy: (212) 808-8100

Maria Papageorgiou: (860) 883-8172

Kristina Rico: (267) 941-6564