

## Special Report: *Can the IRS Put Me in Jail?*

Short answer—yes. As you know, the IRS has very broad powers. In the right set of circumstances, and if IRS agents choose to do so, a criminal tax investigation will be launched by them to determine if someone, or a group of people, have committed certain crimes against the federal treasury. These crimes often include failure to file a tax return, preparing and filing a false tax return, conspiring with other people to evade tax assessments or the payment of taxes, and obstructing the lawful functions of the IRS. There are other tax crimes but these are the most common.

In addition, the IRS investigates other types of financial crimes such as failure to report certain cash transactions in the proper manner, and the later use of money proceeds from certain other crimes such as mail fraud, wire fraud, and bank fraud.

Without a doubt, being entangled in an IRS criminal tax investigation is the worst possible thing that can happen to you with regard to your dealings with the IRS. If you're charged and convicted (or plead guilty) to a federal tax crime you can and probably will go to jail, *and then you get to pay the full amount of taxes, penalties and interest when you get out!*

## *Things to Keep in Mind*

Here are some points to remember about IRS criminal tax investigations:

- a. *Don't try to second-guess this one.* You've got big shoulders and have successfully handled many, many situations in life, but an IRS criminal tax investigation is likely very different from any other you've ever encountered.
- b. Criminal tax investigations are multi-layered, are often based upon certain types of behavior (not just numbers and tax returns), and sometimes involve relatives, business associates, and social relationships. There are also multiple IRS agents involved in a criminal tax investigation, not just one.
- c. Doing time in federal prison is a serious thing and something that is never erased. The consequences of mishandling your affairs, or taking a wrong turn during one of these investigations, can be devastating beyond your current imagination to you, your family, your business and your whole life.

*Things to Keep in Mind. . .continued*

- d. Unlike other IRS inquiries, preservation of your constitutional and other legal rights can be crucial to the outcome of the investigation for you. When the IRS initiates a criminal tax investigation, the case is now a legal matter and not merely a tax matter. This means that the law of search and seizure, summons and subpoena, federal grand jury inquiry, warrants and physical arrest, indictment, confrontation of witnesses, rights against self-incrimination, the government's use of informants, and other matters are before you.
  
- e. Under no circumstances should you try to "go it alone" if you're contacted by IRS Special Agents (they carry gold badges and firearms. . .and, like nuns, always travel in pairs.) Their job is to develop prosecution evidence to make a federal criminal case with regard to tax violations. This is not about figuring out the right amount of taxes you owe or whether you've paid your fair share but, rather, it's about *putting you in jail*. IRS Special Agents will leave the tax auditing and tax collection work to other IRS agents after the criminal investigation is over with.

*Things to Keep in Mind. . .continued*

- f. There are many very competent and helpful CPAs, enrolled agents (EAs), tax return preparers and other non-lawyer tax professionals who practice in the United States. You may even know and use one to prepare your annual tax returns, advise on financial matters for your business, or both. These professionals, through their constant study of the federal tax law and all of its changes and amendments, can be invaluable to you as you plan your financial affairs, save on taxes, and plan for retirement.

Unfortunately, these folks are *not qualified*, by law, to handle an IRS criminal tax investigation. Some of these professionals may be helpful in locating a competent criminal tax defense lawyer for you or, in certain cases, even assisting the lawyer in marshaling the best possible defense for you, but they cannot, *by law*, effectively represent you in an IRS criminal tax investigation. This is, in part, because an IRS criminal tax investigation is a legal matter and not simply a tax matter. In a federal criminal context, the CPA has no ability to assert an attorney-client, accountant-client or work-product privilege protecting what you show or tell him or her in the course of an IRS criminal tax investigation.

*Things to Keep in Mind. . .continued*

In fact, it is oftentimes the case that the past and prior year work performed by the CPA, tax return preparer or other non-lawyer tax professional is subject to compelled disclosure when this professional is called by the government as a witness against you *and there is nothing the CPA or return preparer can do about it* except comply! Nothing is protected from disclosure by the CPA or other tax professional in a criminal tax case. Also, while CPAs and others may be as well-versed as you are on the Fifth Amendment privilege against self-incrimination, they have no power to assert it on your behalf in criminal tax cases, because federal law limits the services they can provide.

*WARNING:* Any piece of paper a CPA or other, non-lawyer tax professional has in their files about your taxes, or anything you've said to one of these people about anything, **MUST** be divulged by that professional if the IRS demands it.

- g. Finally, all that is the best, and the worst, about human nature conspires against a person in an IRS criminal tax investigation. On the one hand, the basic human trait of honesty, the desire to do what's right, pulls you in one way. Conversely, the need for self-preservation and doubts about simply "telling it like it is" to federal investigators, might land you in jail.