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**Campaigns Help**

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This campaign has been sent or has been queued for delivery. Modifications will not be saved. Please 'Copy Campaign' if you wish to make changes.

**Sept. 10 2007: Message Content**

**Message Headers**

Audience:  (as of 09/10/07 @ 10:02 am)

From Name:

From Address:

Subject:

Test Group:

Template:

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**Message Content**



**FROM THE DESK OF MORGAN D. KING  
Sept. 10 2007**

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**NAMES OF DELINQUENT TAXPAYERS TO BE PUBLISHED!**

CALIFORNIA STATE TAX BOARD TO PUBLICIZE NAMES OF DELINQUENT TAXPAYERSState

SAN FRANCISCO (KCBS) -- The California Franchise Tax Board is going after taxpayers who owe more than a quarter of a billion dollars in back taxes by threatening to list their names and debts on the agency's Website.

Of roughly 20 million taxpayers in California, about 250 owe anywhere from \$185,000 to over \$26 million in back taxes, according to State Controller and Franchise Tax Board Chair John Chiang.

**NEWS FOR  
LAWYERS  
HELPING  
DELINQUENT  
TAXPAYERS**





FOR CONSULTATION  
ABOUT YOUR CLIENT'S  
DELINQUENT TAX  
PROBLEMS  
**(925) 829-6363**

"We're just trying to get people to do the right thing," said Chiang. "It's unfair to you, it's unfair to everybody else who does the right thing here in California. For these people to say I'm not going to return my fair share, it's the ultimate height of selfishness."

The state is giving the delinquent taxpayers 30 days to pay up, or find their name, city and tax due on the Tax Board Website.

"It draws attention to these individuals and businesses and hopefully they will make good on their responsibilities as citizens," Chiang said.

The 250 actually file returns, but ignore liens and don't pay.

#### LOCAL GOVERNMENTS ARE TAX DEADBEATS TOO!

Jeff Quinn  
special to the bonanza  
September 7, 2007

Talk about the pot calling the kettle black! All we and thee ever hear about from the IRS is how ordinary folk owe taxes which they don't want to pay. But now cometh the Treasury Inspector General for Tax Administration (TIGTA for short) who notes that as of January 2007, delinquent tax accounts of state and local governments totaled a hefty \$254 million!

"It is outrageous that government entities are failing to pay their employment taxes," quoth TIGTA George J. Russell. "It is especially troubling that federal organizations are part of this problem. The IRS must develop comprehensive procedures to remedy this inexcusable situation."

Indeed.

The Associated Press was recently quick to point out that the tab due from governments pales in comparison to the some \$6 billion owed by businesses. TIGTA, however, notes that "It is critical to the image of the United States that federal government entities be held to the same standards as private employers."

For more story - <http://www.tahoebonanza.com/article/20070907/Business/109070034>

#### GOVERNMENT SUES TAX ADVISOR OVER FRAUDULENT RETURNS

By TODD RUGER  
[todd.ruger@heraldtribune.com](mailto:todd.ruger@heraldtribune.com)

SARASOTA -- The former owner of Jackson-Hewitt tax franchises used sham corporations and illegal deductions to help taxpayers evade \$138 million in income taxes in the past four years, the U.S. Department of Justice says.

In a lawsuit filed Thursday, the Justice Department asks the federal courts to prevent Daniel Prewett and four of his former employees from preparing any more tax returns.

The lawsuit also suggests the possibility of audits -- including the specter of civil and criminal penalties -- for taxpayers in the Sarasota region who did not pay all the taxes they owed.

For more story - <http://www.heraldtribune.com/article/20070907/NEWS/709070495>

#### STILL TIME TO ENROLL IN PRACTITIONER FORUM

Practitioner Phone Forum on Sept. 19: IRS e-file - How to Get Started

Attend one of three forums on Sept. 19 to hear about the e-file application process, benefits and more. CPE is available. For details, go to IRS.gov. Register online at the AT&T Teleconference Services Web site by Sept. 14.

To register - <http://www.taxforuminfo.com/>

#### INVESTMENT BANKER IMPRISONED FOR TAX SCAM

Posted on Wednesday, 5 of September , 2007

NEW YORK—Investment banker Richard Josephberg was sentenced Wednesday in White Plains federal court to 50 months' imprisonment based on his involvement in a scheme to evade payment of a multimillion-dollar tax debt owed by Josephberg to the Internal Revenue Service as a result of his participation in tax shelter transactions. Josephberg, 60, of Greenwich, Conn., and formerly of Armonk, was convicted after a four-week trial in April of all 17 counts of an indictment charging him with tax evasion, conspiracy, filing false income tax returns, failure to file tax returns, failure to pay taxes, obstructing the IRS, and health care fraud. According to the testimony and proof at trial, Josephberg, a former securities analyst at Goldman Sachs, was a founding partner of J.R Cralin & Co., a company that promoted and sold various tax shelter transactions between 1977 and 1985.

Those tax shelter transactions — which were carried on with tax shelter promoters such as Bernard "Fred" Manko and Charles Atkins, both of whom were later convicted in the U.S. District Court for the Southern District of New York for selling fraudulent tax shelter losses — resulted in hundreds of millions of dollars of bogus losses being claimed by investors in the Cralin tax shelters.

For more story - [http://www.northcountrygazette.org/news/2007/09/05/banker\\_scheme/](http://www.northcountrygazette.org/news/2007/09/05/banker_scheme/)

#### COURT FINDS DENIAL OF OFFER-IN-COMPROMISE WAS ABUSE OF DISCRETION

In this case the IRS denied the taxpayer's offer-in-compromise. The taxpayer appealed to the Court, which found that the IRS appeals officer had, indeed, been arbitrary or capricious in denying the offer.

"Plaintiffs (taxpayers) contend that even though they questioned whether IRS records of their tax liabilities were accurate, the Appeals Officer issued her decision rejecting Plaintiffs' proposed collection alternatives prior to determining the correct amount of taxes due. As a result, the Appeals Officer determined that Plaintiffs were not financially able to pay an installment plan based, in part, on the erroneous determination that Plaintiffs owed \$709,431.70 in taxes, including over \$170,000 in pre-petition taxes, when Plaintiffs' pre-petition taxes had been paid in full.

"Plaintiffs challenged the amount of their total tax delinquency at their CDP hearing. The Appeals Officer, however, issued her Notice of Determination prior to determining the amount of Plaintiffs' tax delinquency. As a result, the Notice of Determination rejected Plaintiffs' request for an installment plan based on erroneous information, including an overstatement of Plaintiffs' outstanding employment taxes by at least \$170,000.00 and an understatement of Plaintiffs' proposed monthly payment by \$3,095. These errors may or may not have affected the Appeals Officer's ultimate determination. However, the Court finds that when a challenge to the amount of delinquent taxes has been raised and the viability of a proposed collection alternative depends, in part, on the amount of taxes due, issuing the Notice of Determination



prior to determining the correct amount of taxes due is an abuse of discretion. Therefore, the Court will remand this matter to IRS Appeals for a new CDP hearing and Notice of Determination.

Borges v. U.S., 317 F.Supp.2d 1276 (D.N.M., 2004)

## TWO CASES FIND IRS DENIAL OF INNOCENT SPOUSE STATUS WAS ABUSE OF DISCRETION

In two cases the courts found that in denying the taxpayer's innocent-spouse defense, the appeals officer had failed to adequately consider key factors.

### THE FIRST CASE:

On February 2, 1999, petitioner filed Form 8857, Request for Innocent Spouse Relief (And Separation of Liability and Equitable Relief), in which she sought relief from joint liability for a portion of the amount of the unpaid tax liability shown on the 1995 joint return. On June 6, 1999, respondent sent petitioner a letter which said that respondent had preliminarily determined that petitioner was not entitled to relief under section 6015(f).

An Appeals officer met with petitioner's representative for 3 hours on November 18, 1999, and for 2 hours on September 21, 2000. Respondent determined on October 31, 2000, that petitioner was not entitled to equitable relief under section 6015(f) for 1995. Respondent's only stated reasons were: "You had knowledge of the liability, and you are still married and living with the nonrequesting spouse." Exhibit 10-R, which includes the materials assembled by the examining agent and the Appeals officer in response to petitioner's claim for equitable relief, is respondent's administrative file (the administrative file) for this case. Petitioner timely filed a petition in this Court.

Petitioner has presented an especially strong case for relief from joint liability under factors promulgated by the Commissioner in Rev. Proc. 2000-15, supra: all of these factors either weigh in favor of petitioner or are neutral, and none of those factors weigh against granting relief to petitioner. Petitioner did not significantly benefit from the underpayment, the underpayment was solely attributable to Mr. Wiwi, she has complied with Federal tax laws at least since 1995, she did not know or have reason to know Mr. Wiwi would not pay the unpaid tax for 1995, and payment of the tax would cause economic hardship. The neutral factors include petitioner's marital status and lack of spousal abuse. The legal obligation factor does not apply here because petitioner and Mr. Wiwi are still married. We determine that respondent's denial of relief under section 6015(f) was an abuse of discretion, and that, on the basis of all the facts and circumstances, it would be inequitable to hold petitioner liable for the underpayment of tax for 1995.

The Court also explained:

Section 6015(f)4 authorizes the Secretary to prescribe procedures under which, taking into account all the facts and circumstances, the Secretary may determine that it is inequitable to hold an individual jointly liable for tax. Section 6015(e)(1)(A)5 provides our jurisdiction in section 6015 cases. Section 6015(e)(1)(A) provides that a taxpayer against whom a deficiency has been asserted and who elects to have section 6015(b) or (c) apply may petition this Court "to determine the appropriate relief available to the individual" under section 6015, including relief under section 6015(f). *Fernandez v. Commissioner*, 114 T.C. 324, 330-331 (2000). To prevail under section 6015(f), petitioner must show that respondent's denial of equitable relief from joint liability under section 6015(f) was an abuse of discretion. *Jonson v. Commissioner*, 118 T.C. 106, 125 (2002); *Cheshire v. Commissioner*, 115 T.C.



183, 198 (2000), affd. 282 F.3d 326 (5th Cir. 2002); Butler v. Commissioner, 114 T.C. 276, 292 (2000).

Ewing v. Commissioner of Internal Revenue, Docket No. 1940-01 (U.S.T.C. 1/28/2004) (U.S.T.C., 2004) (reversed on jurisdictional grounds: 3 Commissioner v. Ewing, 439 F.3d 1009 (9th Cir. 2006), revg. 118 T.C. 494 (2002), vacating 122 T.C. 32 (2004).)

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THE SECOND CASE:

On or about April 25, 2002, at the request of respondent, petitioner submitted to respondent Form 886-A, Innocent Spouse Questionnaire (petitioner's Form 886-A).

On August 19, 2004, respondent's Appeals Office (Appeals Office) sent petitioner a "Notice of Determination Concerning Your Request for Relief under the Equitable Relief Provision of Section 6015(f)" (notice of determination). In the notice of determination, the Appeals Office denied petitioner relief under section 6015(f) with respect to, inter alia, taxable years 1988 through 1997 and 2000. The notice of determination stated in pertinent part:

We're writing to tell you that we've made a decision about your February 28, 2002 request for innocent spouse relief under Section 6015(f) of the Internal Revenue Code. \* \* \* We've determined that, for the above tax years we cannot allow your request. It has been determined that you do not meet the statutory criteria for granting of the innocent spouse relief. \* \* \*

Section 4.03 of Revenue Procedure 2003-61 provides a list of factors which respondent is to take into account in considering whether to grant an individual relief under section 6015(f). No single factor is to be determinative in any particular case; all factors are to be considered and weighed appropriately; and the list of factors is not intended to be exhaustive. Rev. Proc. 2003-61, sec. 4.03, 2003-2 C.B. at 298. on the record before us, we find that petitioner has carried her burden of showing that respondent abused respondent's discretion in denying her such relief with respect to the unpaid liabilities for the years at issue.

The Appeals Office implicitly acknowledged in the notice of determination that payment of the unpaid liabilities for the years at issue would cause even greater economic hardship than already existed. We find that the economic hardship factor weighs in favor of granting petitioner relief under section 6015(f).

As we understand it, although the Appeals Office found in the notice of determination that petitioner did not receive a significant benefit from the failure to pay the unpaid liabilities for the years at issue, that office did not conclude that therefore the significant benefit factor weighed in favor of granting petitioner relief under section 6015(f). We reject as unfounded the Appeals Office's failure to conclude in the notice of determination that the significant benefit factor favored granting petitioner such relief. Under cases where Revenue Procedure 2003-61 is applicable, we consider the lack of significant benefit by the taxpayer seeking relief from joint and several liability to be a factor that favors granting relief under section 6015(f). We find that the significant benefit factor weighs in favor of granting petitioner relief under section 6015(f).

The notice of determination failed to address whether petitioner made a good faith effort to comply with the tax laws for any of the taxable years following the taxable years at issue. However, respondent acknowledges on brief that petitioner "appears to have been compliant at the time the Notice of Determination was issued." We reject as unfounded the Appeals Office's failure to conclude in the notice of determination that the tax law compliance factor favored granting petitioner relief under section 6015(f).

Based upon our examination of the entire record before us, we find that petitioner has carried her burden of showing that respondent abused respondent's discretion when the Appeals Office determined in the notice of determination to deny her relief under section 6015(f) with respect to the unpaid liabilities for the years at issue.

[In a footnote the court observed: In determining whether a requesting spouse will suffer economic hardship, sec. 4.02(1)(c) of Revenue Procedure 2003-61, to which sec. 4.03(2)(a)(ii) of that revenue procedure refers, requires reliance on rules similar to those provided in sec. 301.6343-1(b)(4), *Proced. & Admin. Regs.* Sec. 301.6343-1(b)(4), *Proced. & Admin. Regs.*, generally provides that an individual suffers an economic hardship if the individual is unable to pay his or her reasonable basic living expenses. Sec. 301.6343-1(b)(4), *Proced. & Admin. Regs.*, provides, in pertinent part:

(ii) Information from taxpayer.—In determining a reasonable amount for basic living expenses the director will consider any information provided by the taxpayer including—

(A) The taxpayer's age, employment status and history, ability to earn, number of dependents, and status as a dependent of someone else;

(B) The amount reasonably necessary for food, clothing, housing (including utilities, home-owner insurance, home-owner dues, and the like), medical expenses (including health insurance), transportation, current tax payments (including federal, state, and local), alimony, child support, or other court-ordered payments, and expenses necessary to the taxpayer's production of income (such as dues for a trade union or professional organization, or child care payments which allow the taxpayer to be gainfully employed);

(C) The cost of living in the geographic area in which the taxpayer resides;

(D) The amount of property exempt from levy which is available to pay the taxpayer's expenses;

(E) Any extraordinary circumstances such as special education expenses, a medical catastrophe, or natural disaster; and

(F) Any other factor that the taxpayer claims bears on economic hardship and brings to the attention of the director.]

Beatty v. Commissioner of Internal Revenue, No. 22047-04 (U.S.T.C. 6/27/2007) (U.S.T.C., 2007)

## SOME TAX-RELATED DOMAIN NAMES AVAILABLE

We have held the registration of several tax-related domain names for almost 10 years. However, our tax law firm is marketed as TaxJustice.com, and we have no current need for these others.

It seems to me someone out there could make good use of one or more of these. If you're interested, make an offer. It may become an auction, but you may be the only bid. We are looking for \$1,950 but will consider any offer.

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settletaxes.com

E-mail your offers or questions to [morgan@TaxJustice.com](mailto:morgan@TaxJustice.com)

## CONSULTING WITH MORGAN KING 925-829-6363

### HELPING PEOPLE WITH DELINQUENT TAX PROBLEMS

California attorney Morgan D. King has been in practice for over 35 years, many of those years dedicated to finding legal remedies for delinquent tax liabilities. He is the author of the acclaimed King's Discharging Taxes in Bankruptcy, and is currently writing King's Guide to Delinquent Tax Remedies.

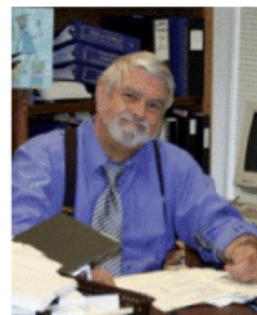
King consults with other tax professionals, evaluating cases and writing expert opinion letters to help guide lawyers, enrolled agents, and accountants with their clients. He also represents taxpayers. Among the services offered are:

- Offers-in-compromise
- Marital transmutation agreements
- Representation at collection due process hearings
- Innocent-spouse defense
- Analysis of tax collection statutes of limitations
- Installment payment plans
- Tax Advocate assistance
- Discharge in bankruptcy

Visit Morgan King's web site, TaxJustice.com, by clicking on his picture at right or below.

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