



## FROM THE DESK OF MORGAN D. KING Sept. 27 2007

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### NEWS FOR LAWYERS HELPING DELINQUENT TAXPAYERS

## NEW ONLINE APPLICATIONS FOR FED I.D. NUMBERS: IRS EMPLOYEE SENTENCED FOR UNLAWFUL DISCLOSURES

EMPLOYER IDENTIFICATION NUMBER APPLICATION PROCESS ONLINE

Sept. 25, 2007

WASHINGTON — Taxpayers can now request an Employer Identification Number (EIN) through a Web-based system that instantly processes requests and generates identification numbers in real time, the Internal Revenue Service announced today.

"This new and improved online application will reduce the time it takes taxpayers to get an EIN," said Richard Morgante, Commissioner of the IRS Wage & Investment Division. "Essentially they can get one while they wait -- within minutes."

Here's how it works. A taxpayer accesses the Internet EIN system through IRS.gov and enters the required information. If the information passes the automatic validity checks, the IRS issues a permanent EIN to the taxpayer. If the information does not pass the validity checks, it is rejected. The taxpayer then has an opportunity to correct the information and resubmit the application.

More story - <http://www.irs.gov/newsroom/article/0,,id=174316,00.html>

IRS EMPLOYEE SENTENCED FOR CONSPIRACY TO DISCLOSE TAXPAYERS' RECORDS

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August 17 2007

On July 19, 2007, Jean Christian was placed on probation by the U.S. District Court for the Eastern District of Virginia, for a term of two years. As a special condition of the probation, Christian will participate in a home confinement program, including electronic monitoring, for a period of 90 days. Christian was also ordered by the court to pay a \$100 special assessment and the costs of prosecution in the amount of \$4,646.49. Christian was sentenced after pleading guilty to conspiring to commit unauthorized access to a Government computer and disclosing tax records to an unauthorized person.

According to court records, Christian, who was employed by the Internal Revenue Service (IRS), knowingly and unlawfully accessed the tax records of several individuals 137 times between 1997 and 2004 and then disclosed the records to a friend.

SOURCE: Treasury Inspector General - [http://www.treas.gov/tigta/oi\\_highlights\\_recent.shtml](http://www.treas.gov/tigta/oi_highlights_recent.shtml)

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#### PRIVATE TAX COLLECTION BENEFITS PUBLIC

by Dan Drummond

(NAPSI)-There may be good news for those who think they are paying more than their fair share of federal taxes. Following the example of several local and state agencies, the Internal Revenue Service has begun to partner with the private sector to recover delinquent income taxes. So far, the IRS Private Debt Collection Program is exceeding expectations, collecting more than \$24 million in its first year. Once fully implemented, it's expected to collect \$2.2 billion over 10 years.

Some critics in Congress, however, have called for an end to the program before it's even had a chance to get off the ground.

The program's opponents have ignored the benefits it brings to the average American taxpayer. Taxpayers are being treated professionally, information security has proven to be on the same level if not superior to that of federal agencies, and the IRS is getting much-needed help to close the tax gap.

More story - <http://www.napsnet.com/lastweek/55966.html>

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#### TEXAS AMNESTY COLLECTS \$100 MILLION IN DELINQUENT BUSINESS TAXES

San Antonio Business Journal - September 20, 2007

Texas Comptroller Susan Combs' recent tax amnesty program Project Fresh Start brought in more than \$100 million in unpaid taxes to state and local governments. More than \$90 million went to the state, while the remaining \$10 million went to local governments.

Combs created an amnesty period from June 15 through Aug. 15 that allowed 1,258 businesses to report and pay their delinquent taxes. In return, the comptroller's office

agreed to waive penalty and interest charges.

"These successful results far exceeded our expectations," Combs says. "The tax amnesty brought in \$47 million in sales tax, \$46 million in franchise tax and varying amounts of 19 other taxes."

More story - [http://www.bizjournals.com/sanantonio/stories/2007/09/17/daily33.html?ana=from\\_rss](http://www.bizjournals.com/sanantonio/stories/2007/09/17/daily33.html?ana=from_rss)

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## SPECIAL IRS WEB SITE FOR TAXPAYERS LOSING HOMES

Foreclosure Tax Relief Available to Many

Sept. 17, 2007

WASHINGTON — The Internal Revenue Service unveiled a special new section today on IRS.gov for people who have lost their homes due to foreclosure. The IRS also reassured homeowners that, although mortgage workouts and foreclosures can have tax consequences, special relief provisions can often reduce or eliminate the tax bite for financially strapped borrowers who lose their homes.

The new section of IRS.gov includes a variety of information, including a worksheet designed to help borrowers determine whether any of the foreclosure-related relief provisions apply to them. For those taxpayers who find they owe additional tax, it also includes a form they can use to request a payment agreement with the IRS. . In some cases, eligible taxpayers may qualify to settle their tax debt for less than the full amount due using an offer-in-compromise.

The IRS urges struggling homeowners to consider their options carefully before giving up their homes through foreclosure.

Under the tax law, if the debt wiped out through foreclosure exceeds the value of the property, the difference is normally taxable income. But a special rule allows insolvent borrowers to offset that income to the extent their liabilities exceed their assets.

Visit the IRS page for foreclosures - <http://www.irs.gov/newsroom/article/0,,id=174034,00.html>

RELATED ARTICLE: The double-whammy of foreclosures: a tax bill

Mark Schwanhausser

As if losing your home through foreclosure often isn't traumatic enough, many Americans find it can get worse. If your lender forgives any of your mortgage debt, Uncle Sam generally considers that taxable income.

In short, you could owe real money for hypothetical income.

Monday, the Internal Revenue Service made an attempt to shine a light on the confusing tax rules by unveiling a section on its Web site to outline the rules and tax consequences for people who lose their homes through foreclosure.

Exceptions apply for debts cancelled through bankruptcy, insolvency or for non-recourse loans. The IRS warns, though, that homeowners could be stuck with a tax bill if they ever used their home for business or rented it out.

This probably isn't what distressed homeowners want to hear, of course.

They're more likely to prefer what they heard from President Bush last month, when he called on Congress to "temporarily reform" this double-whammy in the tax code as part of his plan to insulate the economy from rising defaults on mortgages closed during the height of the housing boom. "When your home is losing value and your family is under financial stress," Bush said, "the last thing you need to do is to be hit with higher taxes."

So far, Congress has yet to heed his call, however.

Source: Mark Schwanhauser [http://www.merccextra.com/blogs/realestate/2007/09/19/the\\_doublewhammy\\_of\\_foreclosur/](http://www.merccextra.com/blogs/realestate/2007/09/19/the_doublewhammy_of_foreclosur/)

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#### JUSTICE SEEKS CLOSURE OF NATIONWIDE TAX FRAUD SCHEME

Justice Department Asks US Court in California To Halt Alleged Nationwide Tax Fraud Scheme - IRS

Source: US Department of Justice, US Attorney's Office  
September 17, 2007

Financial Advisers Allegedly Helped Clients Understate Taxes On Sales of Assets Worth More Than \$1 Billion

WASHINGTON - LAWFUEL - The Legal Newswire - The Justice Department announced today that it has asked a federal court in San Francisco to stop three firms and four men from promoting a tax scheme that the government alleges has helped more than 1,700 customers across the country improperly avoid tax on gains from sales of a total of more than \$1 billion in assets.

The four men named in the civil injunction suit, filed in the U.S. District Court for the Northern District of California, are Charles Cathcart of Santa Barbara; his son Scott Cathcart of Ross, Calif.; and Yurij Debevc and Robert Nagy, both of Charleston, S.C. The three firms named as defendants are all based in Charleston - Derivium Capital, LLC; Derivium Capital (USA) Inc.; and Veridia Solutions LLC. The complaint alleges that Derivium Capital LLC also had an office in San Francisco.

According to the government's complaint the defendants promoted a scheme that helped customers disguise sales of appreciated stock or other assets (which would result in substantial income taxes on capital gains) as purported transfers of the assets as collateral for sham loans. The defendants are alleged to have falsely advised clients that because the transactions were in the form of a loan, instead of a sale, they were not obligated to report the transactions as sales on their income tax returns. The complaint further alleges that virtually all of the purported "loan" funds paid to customers were in fact derived from the sale of the customers' appreciated assets.

More story - <http://lawfuel.com/show-release.asp?ID=15114>

## **HELD: IRS ABUSED DISCRETION IN REJECTING HUSBAND'S INNOCENT-SPOUSE APPLICATION**

In a recent (Aug. 2007) innocent-spouse case the wife had committed embezzlement and not reported the income on the couple's joint tax return. At the time the parties signed the original tax return the husband was in the dark about all this. Later, he and his wife signed and filed an amended return disclosing the true facts. The husband sought innocent-spouse status, which was rejected.

In rejecting the request, Appeals asserted that at the time he signed the amended return, he knew the tax would not be paid, and accordingly he was not eligible for innocent-spouse status. Appeals also showed that the husband had benefited to a modest degree from the money saved by not paying taxes.

The United States Tax Court (T.C.) reversed the IRS decision, primarily on the ground that the factors cited by the IRS to support its decision in fact, according to the Court, favored the taxpayer's right to innocent spouse status. It held that to show the applicant had benefited to the extent required to disqualify innocent-spouse status, the evidence would have to show he "significantly benefited (beyond normal support) from the unpaid liability ..." The T.C.'s view of the evidence showed no such significant benefit, and the Court ruled that this factor favored granting the relief.

The Court also held that in order to be disqualified on the basis of his knowledge of the facts, the time at which this factor should be considered was when the husband signed the original tax return, when he was still ignorant of the facts, rather than the second, amended return.

Billings v. Commissioner of Internal Revenue, No. 6148-03 (U.S.T.C. 8/16/2007) (U.S.T.C., 2007).

## **HELD: IRS APPEALS INTERPRETED FACTORS INCORRECTLY IN REJECTING INNOCENT-SPOUSE FOR WIFE**



In a similar recent case (June 2007) the taxpayer submitted Form 886-A, Innocent Spouse Questionnaire.

Subsequently, Appeals sent the taxpayer a "Notice of Determination Concerning Your Request for Relief under the Equitable Relief Provision of Section 6015(f)." The notice of determination stated in pertinent part:

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

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. Thus, the Court found that the economic hardship factor weighed in favor of granting petitioner relief under section 6015(f).

The Court also said that the taxpayer's lack of substantial enjoyment of the benefit of the underpaid tax should not have been used against her, but rather deemed a favorable factor for the taxpayer.

Said the Court:

"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 also failed to mention that the taxpayer had been in compliance with tax laws; the Court found that this should have been included as a factor arguing in favor of granting the relief.

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 for a domain name but will consider any offer.

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



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### 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 Legal 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
- Collection appeals
- Discharge in bankruptcy

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

Or, e-mail him at [morgan@TaxJustice.com](mailto:morgan@TaxJustice.com)

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