

THE IRS TATTLER

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From Travis' Desk

99.9% of my clients are good, honest, hard-working Americans. Most of them have just had a bad, life-altering event happen to them. For example, the recession. We have people that come to see us who are married and, both spouses have become under-employed or totally unemployed. A lot of these folks don't have savings accounts and they turn to their 401k's or other retirement accounts to cash out (not just to supplement their income, but just to survive if they have no income). They fully intend to put that money back into their IRA within 60 days to avoid a 10% penalty for early withdrawal. However, IT NEVER HAPPENS.

When you cash out that 401k, you are not only going to get hit with a 10% penalty right off the bat, but the IRS considers that money to be taxable income, regardless of the fact that you may not even be employed. So,

you may actually be unemployed but bumped into a higher tax bracket than you had previously been paying when you had a job!!!

We also routinely see marital problems, nasty custody battles, bad health problems... in other words, LIFE! It is not hard to see how easy it is for good, hardworking people to find themselves at odds with the Internal Revenue Service, with no nefarious intent whatsoever.

But, there is hope! The IRS has loosened some of its processes in response to these situations in May of 2012 as part of its "fresh start" initiative to make debt relief packages, such as the IRS' offer in compromise, more user-friendly. We have not seen the formulas for obtaining relief this relaxed in the last 15 years! The IRS is being a little more lenient and understanding that taxpayers are behind the 8 ball.

The offer in compromise

process can result in substantial savings for taxpayers because of the fresh start initiative. For that reason, it is an intrusive blizzard of paperwork that will get scrutinized with various levels of intensity (based on how much you owe). Like all IRS programs, this one won't be around forever. Some of these programs are set to time out this Summer.

Greatly increase your chances of getting an offer in compromise approved by enlisting the help of Oklahoma's premier tax law firm, The Law Offices of Travis W. Watkins. Call us at 1-800-721-7054 today.



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"YOUR IRS WEAPON,
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Every Sunday at 4:00pm

Wesley Snipes Out of Prison, but Under House Arrest

Actor Wesley Snipes has been released from prison after serving nearly two and a half years in prison for failing to file tax returns. Snipes was convicted in 2008 of three misdemeanor counts for failing to file tax returns for 1999, 2000 and 2001 and sentenced to three years in prison. He had appealed his conviction all the way to the Supreme Court, which declined to hear the case (see Supreme Court Rejects Wesley Snipes Appeal). He began serving his sentence in December 2010 in one of the most high-profile tax protestor cases in recent years. Snipes was released from a federal prison in Pennsylvania on April 2, according to TMZ. He will remain under house arrest in New York until July 19.

According to an appeals court that had upheld the conviction, sometime around 2000, Snipes became involved in co-defendant Eddie Ray Kahn's organization, American Rights Litigators, which purported to assist customers in resisting the Internal Revenue Service. ARL employees, including co-defendant Douglas Rosile, who was Snipes's accountant and tax preparer, sent "voluminous" letters to the IRS challenging the agency's authority to collect taxes. The centerpiece of their resistance, according to the court, was the "861 argument" that the domestic earnings of individual Americans do not qualify as "income" under the law, because the earnings did not come from a listed source.

While Snipes earned more than \$37 million in gross income from 1999 to 2004, he did not file individual federal income tax returns for any of those years, according to the appeals court. During that

time period, Snipes sent treatises to the tax authorities describing theories about why the IRS was powerless to collect income taxes from him and several altered tax forms demanding money for taxes he had rendered in earlier years. In April 2001, Snipes sent an altered Form 1040X, styled as an Amended United States Individual Income Tax Return, in which he demanded a refund of over \$7 million for taxes paid for the calendar year 1997, allegedly paid in error.

Snipes's correspondence with the IRS advanced several arguments justifying his failure to file his personal tax returns, including that he was a "non-resident alien to the United States," whose earned income must come from "sources wholly outside the United States," that "a taxpayer is defined by law as one who operates a distilled spirit plant," and that the Internal Revenue Code's taxing authority "is limited to the District of Columbia and insular possessions of the United States, exclusive of the 50 States of the Union."

Snipes also claimed that as a "fiduciary of God, who is a 'nontaxpayer,'" he was a "foreign diplomat" who was not obliged to pay taxes. However, the court noted, when Snipes consulted his long-time tax attorneys about his resistance to paying federal in-

come taxes, they advised him that his position was contrary to the law and that he was required to file tax returns. The firm terminated Snipes as a client when Snipes refused to file his tax returns.

The court added that the actor's resistance to the IRS did not stop at his personal filings. He integrated the ALR tax "teachings" into the accounting methodology of his film production companies, and after June 2000, his companies stopped deducting payroll and income taxes from its employees' paychecks. Snipes also began to proselytize this theory of tax resistance. He invited several employees to an "861" educational seminar at his home.

"When accounts-payable employee Carmen Baker attended the seminar and questioned the '861' theory, Snipes ordered her to leave his house, later telling her that he was 'disappointed' in her and that if she was 'not going to play along with the game plan,' she should find another job," the court noted.

The IRS launched a criminal investigation of Snipes after the agency received his altered Form 1040X for the year 1997 in April 2001, demanding a refund of over \$7 million based upon the "861" argument. On Oct. 12, 2006, a Florida grand jury returned a superseding indictment, charging Snipes and his two co-

defendants, Kahn and Rosile, with various crimes relating to a fraudulent tax scheme. Snipes was arraigned on Dec. 8, 2006.

Snipes filed a motion in June 2007 to move the venue to New York, but the district court twice denied the motion. In early October 2007, Snipes moved for a continuance after he had fired his counsel for incompetence and hired new lawyers. After the district court granted the continuance, the actor's new lawyers challenged the venue again, alleging that the government had chosen Ocala County, Fla., as the location for the trial for racially discriminatory reasons.

His attorney had claimed at the time that "the government chose the most racially discriminatory venue available, with the best possibility of an all-white jury," and that the Ocala area was a "hotbed of Klan activity."

Snipes also attempted to file a statutory transfer election, claiming that the district court could disregard the statutory 20-day deadline for filing change of venue motions because the ineffective assistance of his prior counsel constituted "good cause." The trial court denied both venue motions.

After the district court refused to conduct a pretrial evidentiary hearing on the issue of venue, Snipes lodged a notice of appeal with the appeals court on the venue-related orders. The appeals court denied it, concluding that an order pertaining to the venue was effectively reviewable after the lower court's entry of judgment.

The case proceeded to a 14-day trial in January 2008. At the trial, an IRS witness testified that alt-



(Continued) Wesley Snipes Out of Prison, but Under House Arrest

though Snipes had regularly filed individual federal income tax returns for the years 1993 through 1998, he had not filed any returns for calendar years 1999 through 2004. IRS Special Agent Cameron Lalli testified extensively about the investigation of the alleged tax conspiracy, the court noted. He described a telephone conversation with Snipes and his lawyer in May 2002, during which Lalli informed Snipes that he was un-

der investigation for tax crimes. When he read Snipes his rights, which included the right to remain silent, Snipes replied, "Very interesting." In the course of the investigation, the grand jury served subpoenas on the office staff of Snipes's production company, Amen RA Films. Former accounts payable employee Carmen Baker testified at the trial that when she received the grand jury subpoena, Snipes ordered her "not to

respond, not to talk to anybody or to disclose any information on the company." When Baker asked Snipes why she should not respond, Snipes replied, "It doesn't matter. I have [a confidentiality agreement] with your signature on it. . . . If you do contact them, you will have to pay the consequences." According to Baker, Snipes's warning made her feel "very upset," "uneasy," and "scared." On Feb. 1, 2008, the

jury convicted co-defendants Kahn and Rosile on the conspiracy and false claim charges, but acquitted Snipes on the same charges. The jury instead convicted Snipes on the misdemeanor charges of willful failure to file individual federal income tax returns for calendar years 1999, 2000, and 2001. The jury acquitted Snipes, however, on the failure-to-file charges for 2002, 2003 and 2004.

Knox & Emma Watkins
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IRS tells agents it can snoop on emails without warrant, internal documents show

The Internal Revenue Service believes it doesn't need permission to root through emails, texts or other forms of electronic correspondence, according to recently released internal agency documents.

The documents, which were obtained through a Freedom of Information Act request by the American Civil Liberties Union, reveal that tax department agents have been operating under the assumption that they can bypass warrants. The ACLU claims this would in turn violate the Fourth Amendment.

According to a 2009 IRS employee handbook, though, the tax agency said the Fourth Amend-

ment does not protect emails because Internet users don't "have a reasonable expectation of privacy in such communications." A lawyer for the agency reiterated the policy in 2010. And the current online version of the IRS manual says that no warrant is required for emails that are stored by an Internet storage provider for more than 180 days.

"This is an affront not only to our system of checks and balances, but also to our fundamental right to privacy," Colorado Democratic Sen. Mark Udall said in a statement Thursday, adding that he wants Congress to overhaul the Electronic Communications Privacy Act.

"In the meantime, I urge the IRS to reconsider its overreach," he said. The ECPA is the federal law that governs law enforcement access to emails, and draws on what some say is an outdated distinction between email stored on a server for 180 days or less and email that has been opened. Opened emailed and email older than six months does not require a warrant. Email that hasn't been opened or is less than six months old does.

Last year, the ACLU looked into allegations that the IRS was reading people's emails and checking their Facebook postings without permission. Privacy advocate groups, like the ACLU, say the

government must obtain a search warrant based on probable cause but the IRS told agents in its criminal division they didn't need to.

"This question is too important for the IRS not to be completely forthright with the American public," ACLU lawyer Nathan Wessler said. "The IRS should tell the public whether it always gets a warrant to access email and other private communications in the course of criminal investigations. And if the agency does not get a warrant, it should change its policy to always require one."

Calls to the IRS for comment were not immediately returned.

FoxNews.com

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Question:

What was invented by accident in May of 1886, and became the world's most recognizable brand?

- A. Coca-Cola
- B. Disney
- C. Marlboro
- D. Kleenex

FAQ: Isn't it the IRS agent's job to help me resolve my tax problems? Why do I get the feeling that we are on opposite sides?

The reason that you feel that you are on opposite sides is because you and the IRS agent have competing goals. While you both want your tax issues settled quickly, your IRS agent wants you to pay your full amount of back taxes, including interests and penalties, as quickly as possible. It is not the IRS agent's job to think about what that would cost you. Instead, it is the IRS agent's job to do what his superiors require of him and to get as much of the money you owe as fast as possible.

You may have the best of intentions and genuinely want to pay your tax debt. However, you may not have the money to do so without sacrificing your financial security or standard of living. The IRS agent may not care about that, but that doesn't mean that nobody is on your side.

An experienced tax attorney may be able to help you negotiate a fair and equitable settlement with the IRS that satisfies your tax debt without causing you undue harm. For more information about your options, your rights, and your possible IRS settlement, please contact an experienced Oklahoma tax lawyer at The Law Offices of Travis W. Watkins, PC today. We can be reached via this website or by calling 800-721-7054. You can also learn more about your rights by reading our FREE book, *The Ultimate Survival Guide for IRS Problems*.

