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Newsletter Article Reprint

Gotcha! The IRS Nabs Another

September 2009

In an article this year, we brought to your attention the increasing interest that IRS is paying to professional associations and corporations. The knowledge that these closely held businesses have been used to reduce personal income tax liability is well known.

In August 2009, a West Virginia dentist, Dr. Alan K. Vance, was sentenced to a year in federal prison, three years supervised release and a fine of \$40,000. So, what is this all about and what might it mean to you?

On March 19, 2009, Dr. Vance entered into a guilty plea to one-count of tax evasion. Dr. Vance is 53 years of age. He is the youngest of 4 children born in Logan County West Virginia where his father was a coal miner for 33 years.

He was a full-time clinical professor at the West Virginia University School of Dentistry for one year and the first Black professor in the history of the dental school. He opened private dental practices in Charleston and Williamson, West Virginia and even owned a dry cleaning business until 2008.

For over 26 years, Dr. Vance travelled between his two dental offices treating 80 – 85 patients. He served as a mentor for local students, volunteered for the less fortunate and underserved in his community where he was well regarded and well respected.

Dr. Vance though, as part of his plea agreement with the government, stipulated that he did willfully attempt to evade and defeat a large part of the income tax due and owed by him to the United States of America for the calendar years of 2001-2003, in the amount of \$190,667. Dr. Vance failed to account for and report to the IRS large amounts of cash generated by his dental practices and dry cleaning business.

How did this come about? His statements include that he altered his business bank deposit slips after they had been prepared by his dental office staff by marking out the cash deposit entries. He failed to advise his tax return preparer of the cash that was generated from his dental practice. He also deposited \$23,002 in checks he received for working for another dentist into his personal bank account and failed to tell his tax preparer about that income.

Additionally, Dr. Vance paid a contractor in cash to install a swimming pool at his residence. He falsely advised federal law enforcement officials that he deposited all of the income from his businesses including cash receipts. In addition to the 2001-2003 deficiencies, Dr. Vance also failed to pay \$51,504 for tax year 2000. He agreed that the total amount of tax loss for the relevant years totaled \$242,171.

Is Dr. Vance the rule or the exception? As we began discussing in a newsletter article late last year (“The IRS is Watching YOU”), each practice should consider how it accounts for its expenses and income. In relating to this case, showing no cash deposited for an entire year is probably going to raise some questions if the IRS ever decides to audit your practice. While there might not be large amounts of cash, a practice depositing zero cash for any year is very unlikely.

Another area of concern should be the overuse of office expenses to hide personal income. Many times when reviewing practice expense statements, some categories are simply overstated. While this might seem to be a viable tax avoidance method, overuse can be a trigger for further investigation; and YES the IRS does have a reasonable idea as to what the normal expenses of a dental office are!

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When it comes time to consider the sale of your practice, overstated expenses that require in depth explanations to reconcile cause banks and prospective purchasers to look more closely at all of your accounting. Many times buyer accountants will request and review your general ledgers. With banks scrutinizing practice transactions more than ever, the more work that needs to be done to “clean” an expense statement, the less likely you are to achieve the highest price for your practice, or even get bank financing, even with a highly qualified, transition expert, assisting you. In some cases, banks have refused to finance practices where there is apparent fraudulent accounting and activity.

While we all believe that everyone does it, it may be time to recognize that there is a real risk in being caught. In this example, and most likely in the future, all of the community standing that you have accumulated over your practice career may not provide a useful excuse when defending yourself against the IRS. Dr. Vance certainly found out the hard way as the court refused his plea to vacate his prison sentence while he performed community service and dental treatment.

The Special Agent in Charge, IRS-Criminal Investigation, Pittsburgh Field Office said “Today’s sentencing is another reminder how serious the consequences can be when someone commits tax fraud,” and “Those Americans who file accurate, honest and timely returns can be assured that the government will hold accountable, those who don’t.”.

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