

Mini-Outline for Free Tax Workshop

Curt Harrington

PATENTAX.COM

curt@patentax.com

(562)594-9784

March 25, 2014 | 5:00-7:00 pm: SBA Santa Ana Dist. Off. Training Room

Overall Security & Privilege: In general, anything you transmit to anyone (wife, girlfriend, children, parents, tax preparer, CPA, EA), by any manner (email, phone, letter, verbal, paper records), may be discoverable and used against you to establish knowing intent. The attorney-client privilege is very narrow and can provide protection for advice given and for analysis done by attorneys that do not file tax returns and do not file bankruptcy petitions, and that do not file anything with the government.

What this means is that once you make a decision to have an attorney (or any other less substantial professional privilege -- CPA, EA) file something, you will have waived your privilege to confidentiality as to disclosure surrounding that privilege. What this means is that you may have a first attorney that you can be honest with and tell all, and expect privacy. That first attorney may do work for you. If you make a filing based upon that topic, you will have waived privilege as to that topic. As an example, what if someone comes to me who has not filed a tax return for the past 10 years? The conversation is privileged. What if I hire a new, never before used tax preparer to make 7 years worth of returns for the purpose of determining what those returns would look like if the taxpayer were to "come clean" with the government? The generated, un-filed returns are privileged. When the taxpayer makes a decision to have those returns filed, the privilege is largely lost as to the background, details, and transactions upon which those returns were based. Any "going forward" action with that attorney has to be based in large part upon complete honesty and disclosure, or else that relationship could be characterized as a conspiracy to defraud the government under 18 U.S.C. §371 (for which is usually much easier for the government to prove & convict).

What this all means is that if you have decided to lie to the government, hiring another person in any capacity to help you lie to the government increases your conviction potential manifold. You can consult with an attorney in private, tell all, then have that attorney tell you about your rights and liabilities, and finally never see that attorney again with some assurance under the law that everything discussed will forever remain private. (Possible exception for the current state of the law concerning overseas accounts for which the 5th, 7th, 9th, & 11th circuits have held that any citizen can interrogated regarding overseas accounts and MAY NOT invoke the 4th & 5th Amendment prohibition on search and self incrimination -- and can be forced to testify about all aspects of their tax and FBAR filings relating to the overseas accounts).

Tax returns submitted are generally signed under penalty of perjury, but don't have nearly the detail that a filing for (1) Offer-in-Compromise, or (2) Bankruptcy will have. Those details, because they are of the objective type that are so well established in the mind of an owner of property, and are subject to relative ease of verification, are potent weapons utilizable by government to establish the kind of intent needed for criminal prosecution.

If you have specific questions you want to ask during the workshop, please fill out and sign the acknowledgment/waiver, or call me privately.

How to deal with tax debts owed to the tax authorities (Federal and State)

- full pay
- bilateral payment agreement
- bankruptcy
- allowing the 10 year statute to run
- unilateral payment plan
- offer in compromise
- non-collectible status
- expatriation finality mechanism

IRS Action tolling: How actions taken toll (stop) the Collections limitations periods

- (1) Periods where assessment or collection prohibited + 60 days §6503(a)(1)
- (2) Tax Court action + 60 days collection statute & Bankruptcy §6503(a)(1)
- (3) Taxpayer outside the united states for 6 month period §6503(c)
- (4) Affects Bankruptcy time periods
- (5) Taxpayer §6503(j) and Third Party §7609(e) summons proceeding appeals

Bankruptcy Tolling (3 year / 2 year / 240 day)

- (1) **Prior Bankruptcy** Tolls 3-Year 240-day period plus 90 days §507(a)(8)(G)
- (2) **Extension to file return** extends 3-year period to extension date
- (3) **Tax Court Litigation** extends 240-day period
- (4) **Offer in Compromise** extends 240-day period + 30 days while pending
- (5) **Appealed Offer in Compromise** extends 3-Year and 240-day period + 90 days while pending
- (6) **Collection Due Process (CDP) Hearing** extends 3-Year and 240-day period + 90 days while pending or appealed (long time). Not so for an EQUIVALENT CDP (IRM 8.22.4.3) (note however, that there is a small scandal where the IRS characterized thousands of EQUIVALENT CDP requests as REGULAR CDP, thus creating internal computer records that the period is tolled when it should not have been. The result is that the IRS will believe that those taxpayer's 10 year collection statute has been extended.

Federal Bank Account Regulations (FBAR):

- (1) File with Department of Treasury (not IRS) by June 30 of each year.
- (2) \$10,000 in collective foreign bank accounts - even one second during year.
- (3) Decision for non-filers on whether to (a) apply for offshore voluntary disclosure program, (2) silent disclosure, (3) do nothing
- (4) Federal and State Criminal involvement & 4th and 5th Amendment weakness. You can be forced to testify and disclose. (See outline <http://www.patentax.com/library/IRSV5thAmendment.pdf>)

Warning: Offer-In-Compromise & Bankruptcy & Bank Account Regulations (FBAR) provide additional “opportunities” to state the nature and extent of your assets on the record => that can provide solid evidence to convict you of a federal crime.