Lessons From Rev. Al Sharpton's $4.5 Million Tax Bill

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Civil rights leader Reverend Al Sharpton is in the headlines again, but not for Ferguson or civil rights issues this time. A New York Times report says that the now svelte Reverend and his for-profit businesses owe a chubby $4.5 million in state and federal taxes. It isn't only the taxman that is not being paid, according to reports. Even worthy causes like hotels, landlords, and travel agencies are getting the cold shoulder from Mr. Sharpton or from his advocacy organization, the National Action Network.

Rev. Sharpton is the president of this civil rights organization, which has chapters and affiliates across America. He is the author of books including 'Al On America' and the host of a nationally syndicated radio program, the Al Sharpton Show. He also has two for-profit business, Revals Communications and Raw Talent. Some of his financial woes appear to stem from poor divisions between business and personal, a common tax problem among entrepreneurs.

Rev. Sharpton acknowledges that he's not the best administrator. Presumably that applies to others in his organizations too. President Obama and Mr. Sharpton may both have a kind of Teflon coating, but even so, the President may want to distance himself from the President's past efforts to raise money for Mr. Sharpton.

Al Sharpton and Eric Garner's wife, Esaw Garner (right), at a protest in Staten Island on July 19, 2014. (Image credit: Thomas Altfather Good via Wikipedia)

Mr. Sharpton is said to be doing his best to pay back the money, in part from donations to his organization. Yet unless that is done carefully, such funding can actually compound his tax problems. He may have lent money or refrained from taking a salary at times. However, records are key to this kind of issue, and rough justice in tax matters is hard to justify.

In 1990, Mr. Sharpton successfully defended claims that he misappropriated $250,000 from a youth group. He has had tax filing issues too. In 1993, he pleaded guilty to a misdemeanor for failure to file a state tax return. Thereafter, his Raw Talent company used for speaking engagements has reportedly also had tax problems.

The New York Times paints a picture of poor planning, with virtually everything paid for and owned by the entities, not by Mr. Sharpton. That may even extend to the clothes on his back, with the entities paying for such personal items as his daughters' private school tuition. If that is true, Rev. Sharpton is blurring one of the most important lines in the tax law. Many tax disputes come down to the fundamental divide between business and personal. Trying to morph personal into business is asking for trouble, including:

- Deducting the cost of a divorce because your business is at risk;
- Deducting a miserable vacation with a best client; or
- Claiming a hobby was really for profit.

You may do things with a dual motive, like having a pleasant lunch with a business colleague, going on vacation with your best client, or buying a vacation home you also intend as an investment. But your tax life will be easier if you try to avoid dual-purpose goals. One other big lesson from Mr. Sharpton? Records.

Keeping good records can help you in a tax controversy. In fact, good records can help keep you out of tax trouble in the first place. Does the IRS care about record keeping? Yes. Most audits are correspondence audits. You may be told your deductions will be disallowed unless you mail back records substantiating them. Tax liens can be based on your own returns or on additional taxes that are assessed.

In Mr. Sharpton's case, reports say there are more than $4.5 million in state and federal tax liens against him and his for-profit businesses. He is not alone in such problems. In fact, celebs can often be in this position. Despite high earnings, their tax bills may slip through the cracks. Notices start the process. In fact, the IRS can file a Notice of Federal Tax Lien only after:

- IRS assesses the liability;
- IRS sends a Notice and Demand for Payment saying how much you owe; and
- You fail to fully pay within 10 days.

The IRS automatically has a lien and files notice so creditors know. IRS tax liens cover all your property even that acquired after the lien filing. The courts use it to establish priority in bankruptcy proceedings and real estate sales.

IRS liens last 10 years, and usually release automatically if IRS has not refiled them. However, you're better off to get them removed immediately. Getting the IRS to release a lien usually involves: (1) paying the tax, interest and penalties; or (2) posting a bond guaranteeing payment. Even then the IRS may take 30 days. State or local government charges to file and release the lien are added to the amount you owe. See IRS Publication 1450, Request for Release of Federal Tax Lien.

Entertainers aren't the only ones with tax lien problems. A case in point were tax liens against Newt Gingrich. But liens and seizures aren’t the same. Liens just make sure the IRS *eventually* gets paid. A seizure means now, yet even seizures can be mishandled.

The Treasury Inspector General for Tax Administration (TIGTA) reviewed a random sample of 50 of 738 IRS seizures conducted from July 1, 2011, through June 30, 2012. In the majority of seizures, the IRS followed all guidelines. However, in 15 seizures, TIGTA identified 17 instances in which the IRS did not comply with a legal mandate of the tax code. The legal errors included:

- The sale of the seized property was not properly advertised (Section 6335(b));
- The amount of the liability for which the seizure was made was not correct on the notice of seizure provided to the taxpayer (Section 6335(a));
- Proceeds resulting from the seizure of properties were not properly applied to the taxpayer’s account or seizure and sale expenses were not properly charged (Sections 6341 and 6342(a)); and
- The balance-due letter sent to the taxpayer after sale proceeds were applied to the taxpayer’s account did not show the correct remaining balance (Section 6340(c)).

Occasionally, even the IRS gets a lien wrong, as occurred when Dionne Warwick proved IRS tax liens can be wrong. Fortunately for Mr. Sharpton and others who owe taxes, the IRS isn't too efficient. In fact, a recent government report says the IRS flubs 57% of tax collections. One key finding was that the IRS is liberal with labeling debts as "uncollectible" before that’s appropriate.

There’s $6.7 billion at stake, says the report. The study does not estimate exactly how much the IRS might collect if its workers followed all the rules. And the IRS disagrees with some of the report, which has this mouthful title: Delinquent Taxes May Not Be Collected Because Required Research Was Not Always Completed Prior to Closing Some Cases As Currently Not Collectible.

Mr. Sharpton isn't likely to be in the uncollectible category, but then again, it might pay to have friends in high places.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.

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I handle tax matters across the U.S. and abroad (www.WoodLLP.com), addressing tax problems, tax disputes, writing tax opinions, tax advice on legal settlements, transact...