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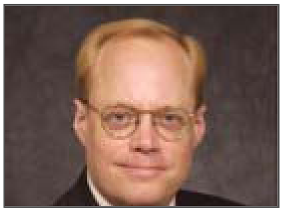

Robert W. Wood
THE TAX LAWYER

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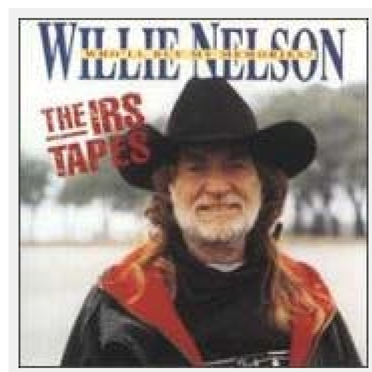
Many IRS Seizures Are Illegal, Government Report Concludes



The IRS Tapes: Who'll Buy My Memories? (Photo credit: Wikipedia)

For the beleaguered IRS, the hits just keep on coming. After the targeting scandal, a key IRS official claimed the Fifth Amendment. House Committee Votes IRS Official Must Testify Despite Fifth Amendment. Then there were all the expense issues, including Star Trek, Gilligan's Island and line dancing videos.

Then there were the abused credit cards. Who wouldn't like a charge card with bills direct to Uncle Sam? See Audit Finds $119 of Unused Nerf Footballs in IRS Cabinet. A watchdog report says there's little oversight.

But now, the increasingly popular Treasury Inspector General for Tax Administration reveals that 30% of IRS Seizures of Taxpayer Property don't comply with the law. The report has an inglorious title but is worth a look: Fiscal Year 2013 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property.

Taking a taxpayer's property for unpaid tax is called a "seizure." Like any debt collector, the IRS can and does enforce collection in some cases. But there are many legal safeguards.

In fact, after a pendulum swing to a more aggressive IRS, in 1998 the IRS had its wings clipped. To ensure that taxpayers' rights are protected, in 1998 Congress amended part of the tax code that deals with seizures. Sections 6330 through 6344. The Treasury Inspector General for Tax Administration is required to evaluate the IRS annually. One big area is to inspect IRS 's seizures.

So are taxpayer rights being violated? It turns out they are. TIGTA reviewed a random sample of 50 of 738 seizures conducted from July 1, 2011, through June 30, 2012. What did it reveal?

The good news is that 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))
- 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))

The tax world is noting this. See IRS Doesn't Comply with Legal Guidelines when Seizing Taxpayer Property. And taxpayers should be too. It doesn't mean that the tax debts aren't valid or that the IRS doesn't have a legal right to collect.

But what it does suggest is that 30% of the time–hardly a rounding error–the IRS gets something wrong. And that should encourage taxpayers in this unfortunate position to verify everything, and where appropriate, to seek professional advice. Be careful out there.

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.