Forbes

Robert W. Wood
THE TAX LAWYER

7 People Charged In Massive Covid-Related Tax Credit Scheme

Robert W. Wood
Senior Contributor
Robert W. Wood is a tax lawyer focusing on taxes and litigation.
Following

During and after the Covid-19 pandemic, the employee retention credit became a massive source of new business for many accountants and other tax professionals. But as has been widely reported for years, the IRS often pushed back on aggressive and downright bogus claims. There were also plenty of good faith interpretive questions, where taxpayers and their advisers believed they qualified for the credit but where the IRS said otherwise.

Some claims, though, were beyond the pale, and even have become criminal tax cases. Can a tax audit lead to serious criminal charges? In some cases yes. A case is point is a new federal indictment that charges seven individuals with operating a multi-state conspiracy to defraud the United States of more than $600 million via filing more than 8,000 false tax returns claiming Covid-19-related employment tax credits. The Department of Justice news release is here.

In response to the Covid-19 pandemic and its economic impact, Congress authorized a tax credit that incentivized businesses to keep employees on their payroll, also known as the "Employee Retention Credit" or ERC. Congress also authorized a credit that reimbursed businesses for the wages paid to employees who were on sick or family leave and could not work because of Covid-19. This "Paid Sick and Family Leave Credit," or SFLC, was equal to the wages the business paid the employees during their leave.

The indictment alleges that from November 2021 to June 2023, defendants Keith Williams, Jamari Lewis, Morais Dicks, Janine Davis, Tiffany Williams, James Hames Jr. and Ewendra Mathurin, all current or former New York residents, repeatedly exploited these programs that were intended to help businesses impacted by the Covid-19 pandemic. The scheme was allegedly headquartered at Credit Reset, a purported credit repair business that Keith Williams owned and operated. Acting as tax preparers, the defendants allegedly filed more than 8,000 false employment tax returns with the IRS claiming Covid-related tax credits on behalf of themselves and their clients.

Each of these tax returns were allegedly fraudulent in that they claimed SFLC in excess of the amount of wages reported on the tax return, listed the same wages as both qualified sick leave wages and qualified family leave wages or claimed the SFLC and ERC for the same wages, none of which was permitted by law. The defendants allegedly profited from the scheme by receiving tax refund checks from the U.S. Treasury and by charging clients a fee or a percentage of the tax refund the client received.

The defendants also allegedly recruited others into the scheme, who were compensated by receiving a percentage of fraudulently obtained U.S. Treasury checks. In total, the defendants sought more than $600 million of which the IRS paid approximately $45 million to the defendants and their clients.

The indictment claims that the defendants concealed their preparation of the false tax returns by not listing themselves as the paid preparer on the tax returns, and by using Virtual Private Networks to obscure their IP addresses while filing the false returns. For clients without a business, the indictment alleges, members of the conspiracy would sell shell companies to the clients in order to file false tax returns.

How was this ring uncovered? The indictment notes that after noticing discrepancies in the filed returns, the IRS and Social Security Administration allegedly requested additional information regarding the tax returns the defendants prepared. In response, members of the conspiracy allegedly would often transmit false information to the IRS and SSA. Some of the defendants also allegedly submitted false Paycheck Protection Program loan applications.

The defendants were charged with 45 counts relating to the scheme, including conspiracy to defraud the United States, wire fraud and aiding and assisting in the preparation of false tax returns. Keith Williams, Lewis, Mathurin, Davis, Tiffany Williams and Dicks were also charged with wire fraud in relation to fraudulent PPP applications they submitted.

Make no mistake, these are serious charges. If convicted, the defendants face very serious prison time:

- A maximum penalty of five years in prison for the conspiracy to defraud the United States charge;
- A maximum penalty of 20 years in prison for each wire fraud charge arising out of the ERC scheme;
- A maximum penalty of 30 years in prison for each wire fraud charge arising out of the PPP fraud; and
- A maximum penalty of three years in prison for each charge of aiding and assisting in the preparation of false return charge.

This is only an indictment, and the government must prove its case to obtain a conviction. But if the seven defendants are found guilty, the potential prison time is lengthy.

Check out my website.