



Offshore Tax Evasion - Cayman Islands and U.S. Taxpayers

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Gary S. Wolfe has over 34 years of experience, specializing in IRS Tax Audits and International Tax Matters including: International Tax Planning/Tax Compliance, and International Asset Protection.

As of July 2016, Gary Wolfe has internationally published 15 books and 28 articles. Gary has received 14 international tax awards from five different Global expert societies in LONDON/UK including being voted one of the 100 leading world's law firms with votes from over 150,000 voters in over 160 countries with the following award: Global 100 (2016) (KMH Media Group) - CA/US International Tax Planning Law Firm of the Year.

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Offshore Tax Evasion: Cayman Islands & US Taxpayers

In March, 2016 the US Dept. of Justice [announced guilty pleas](#) for Two Cayman Island Financial Institutions Cayman National Securities, Ltd. ("CNS") and Cayman National Trust Co., Ltd. ("CNT"). CNS and CNT are affiliates of Cayman National Corp., which provides investment brokerage and trust management services to clients including US Taxpayers. CNS & CNT pleaded guilty to a criminal Information charging them with conspiring with many of their US taxpayer-clients to hide more than \$130m in offshore accounts from the IRS and to evade US taxes on the income earned in the accounts. The plea agreements require the companies to produce account files of non-compliant US taxpayers and pay a total of \$6m in penalties which consists of the forfeiture of gross proceeds of their illegal conduct, restitution of the outstanding unpaid taxes from US taxpayers who held undeclared accounts at CNS & CNT and a fine. The guilty plea is the first conviction of a non-Swiss financial institution for tax evasion conspiracy.

From 2001-2011, CNS and CNT assisted US taxpayers in hiding accounts from the IRS and evading their US tax obligations. At their high-water mark in 2009, CNS & CNT had approximately \$137m in assets under management relating to undeclared account held by US taxpayer clients (on which they earned over \$3.4m in gross revenues).

The tax evasion conspiracy included the following:

- 1) Setting up sham Caymanian companies and trusts ("Cayman structures") to hide US taxpayer beneficial ownership of the accounts;
- 2) Using these Cayman structures to trade in US securities (treating them and not the US persons as the account holders) and failing to disclose to the IRS the identities of the US beneficial owners who were trading in US securities in contravention of CNS obligations under its Qualified Intermediary Agreement with the IRS.

3) After learning about the IRS investigation into UBS (Swiss bank) in 2008, for assisting US taxpayers to evade their tax obligations, CNS and CNT continued to knowingly maintain undeclared accounts for US taxpayer-clients.

The sham Cayman structures CNT set up for US taxpayer-clients included trusts, which were nominally controlled by CNT trust officers but which were in fact controlled by US taxpayer-clients. CNT managed companies acting as directors/officer, which were "shell companies" for which CNT provided a Cayman mailing address. CNS treated these sham companies as the account holders and then permitted the US taxpayer-clients to trade in US securities without requiring them to submit Form W-9s (IRS forms required that identify individuals as US taxpayers as CNS was obligated to do under its QI obligations for accounts held by US persons that held US securities. CNS & CNT agreed to maintain these structures for US taxpayer-clients after many of them expressed concern that their accounts would be detected by the IRS.

As part of their plea agreement CNS & CNT have agreed to provide documents and client files up to 95% of US clients they serviced. IRS Chief Richard Weber stated: "The veil of secrecy has been lifted from what was once a common place for criminals to hide their money offshore. The IRS and DOJ work aggressively to require banks to follow the laws and not turn a blind eye to criminal activity. When individuals and entities hide behind shell corporations and numbered bank accounts, they are not only cheating the US government, they are cheating the honest, taxpaying citizens who are obeying the law and doing the right thing".

Asst. Atty. General Stuart Goldberg said: "Today's convictions make clear that our focus is not on any one bank, insurance company or asset management firm, or even any one country. The Department of Justice and the IRS are following the money across the globe- there are no safe havens for US citizens engaged in tax evasion or those actively assisting them."

Manhattan US Attorney, Preet Bharara said: "The guilty pleas of these two Cayman Island companies today represent the first convictions of financial institutions outside Switzerland for conspiring with US taxpayers to evade their lawful and legitimate taxes. The pleas agreements require these

Cayman entities to provide this Office with the client files, because we are committed to finding and prosecuting not only banks that help US taxpayers evade taxes, but also individual taxpayers who find criminal ways not to pay their fair share. We will follow them no matter how far they go to hide their accounts, whether it is Switzerland, the Cayman Islands or some other tax haven."

