

# IRS Criminal Tax Cases *December 2016*

*Atty Michael Thiel  
Cristopher Swartz  
James C. Brewer  
Alena Aleykina  
Steven H. Young  
Patricia P. Driscoll  
Moses Hall  
Saul Hyatt  
Troy L. Sissom  
Michael Huynh*

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Sanford I. Millar is the founder of MillarLaw a Professional Corporation. He is a Certified Specialist in Taxation Law and is admitted to practice before all courts in the State of California.

Mr. Millar is rated AV® Preeminent™ 5.0 out of 5 by Martindale-Hubbell, and named a Southern California Super Lawyer 2006–2017 (Los Angeles Magazine/Law & Politics Magazine).

"Among our strengths are dealing with the U.S. compliance for permanent residents and dual nationals. We can guide these individuals through the complex solutions offered in foreign financial account reporting, including Offshore Voluntary Disclosures. We can assist U.S. citizens living abroad with reporting business interests, foreign trusts and foreign financial accounts. We have expertise in tax controversy matters including Domestic and Foreign transaction issues."

Mr. Millar taught Partnership Taxation at UCLA Extension and CSUN Graduate School of Business; Advanced Corporate Taxation and Tax Procedure at USC Graduate School of Business.

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# THE WOLFE LAW GROUP

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 January 2017, Gary Wolfe has internationally published 17 books and 110 articles. Gary has received 20 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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# **IRS Criminal Tax Cases 2016 – Atty M. Thiel and Jreck Subs Former Owner C. Swartz**

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## **Attorney Michael Thiel**

Prominent, New Orleans Criminal Defense Attorney Michael Thiel pleaded guilty on 12/7/16 to tax evasion for failing to pay almost \$1m in federal taxes. Despite earning substantial income from his law practice, Thiel failed to pay \$736,527 in federal income tax, penalties and interest and \$261,725 in employment tax, penalties and interest for 2003 through 2013.

Thiel structured the 2007 purchase of his Baton Rouge home to conceal his ownership of the \$435,000 property behind trusts that he owned, making it look like he was renting the home from trusts. Under the plea agreement, Thiel plead guilty to one count of tax evasion and faces up to 37 months in jail. Sentencing has been set for 3/22/17.

According to Jerome R. McDuffie, Special Agent, IRS Criminal Investigations (New Orleans):

“Today’s guilty plea represents a win for the US taxpayers. As a member of the legal profession, Michael Thiel knew his requirement to pay both his personal income and employment taxes, but chose to use alter-ego nominee trusts and bank accounts to violate the laws.”

For more info see DoJ release, Louisiana Criminal Defense Attorney Pleads Guilty to Tax Evasion

## **Cristopher Swartz, Former Owner of Jreck Subs**

In September 2016, Christopher Swartz of Watertown, NY plead guilty to one count each of wire fraud and tax evasion for cheating investors out of \$9.5m+ during the period 2005-2015. He faces 20 years in jail and could be ordered to pay restitution and a fine of up to \$250,000 when sentenced January 2017.

Between 2005 and 2015, Swartz engaged in a promissory note scheme to defraud lenders and investors and evade at least \$3.5m in taxes and obstruct the Internal Revenue Service. Swartz used his multiple interests in Jreck Subs chain and other food/restaurant businesses to raise money by fraudulently inducing lenders with the promise of repayment at high interest rates and ownership interests in the companies.

Swartz misappropriated and diverted funds received and when lenders and investors sought the return of funds, Swartz attempted to lull them with false and fraudulent excuses and "bad checks" and also concealed his assets and income to avoid seizure and collection by lenders, investors and judgment creditors to prevent recovery of their funds. In order to keep investors at bay Swartz would "write checks for partial repayments, which would often bounce... he attempted to lull investors into a false sense of security and hope that their funds would be returned.

Swartz admitted that between 2005-2015, he engaged in a 10-year tax evasion scheme, filing false tax returns that understated his income. He diverted money from business accounts and disguised those diversions as loans and business expenses. He used cash to diminish traceability of funds and concealed his ownership of various assets using multiple entities and

nominees. He falsified partnership tax returns and attempted to impede the IRS's ability to collect employment taxes.

Swartz faces up to 20 years in jail for wire fraud and 5 years in jail for tax evasion. He also agreed to an order of restitution to his victims. The Federal District Court Judge order a forfeiture of his assets (including his royalty payments from Jreck Subs) which if a final forfeiture order is entered, criminally forfeited assets may be used as a source of funds to pay restitution to victims (which may be in excess of 130 victims).

According to the US Attorney and the IRS:

“Mr Swartz used his business enterprises to steal from lenders, investors and the United States, hiding behind an elaborate web of entities and financial transactions... The defendant's wide-ranging, persistent and lengthy fraud and tax evasion schemes cost investors and the IRS millions of dollars.. he is to be held accountable for his brazen conduct... As highly trained and experienced financial investigators, IRS Special Agents (CID) are particularly adept at tracing the flow of funds and uncovering hidden assets.

Mr Swartz's conviction serves as a warning to anyone who schemes to divert money from a business in order to conceal income and evade taxes. This case serves as a clear notice that no one is above the law, and those individuals who seek to evade their tax obligations will face prosecution and incarceration, regardless of the complexity of their schemes or economic status.”

For more info see DoJ release, New York Restaurant Entrepreneur Pleads Guilty to Ten-Year Investment Fraud Scheme and Tax Evasion.

## **IRS Criminal Tax Cases 2016 – J. Brewer and A. Aleykina**

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**James C. Brewer**, an IRS Revenue Officer from Staten Island, New York (worked in Edison, NJ IRS office) falsified his personal income tax returns and failed to account for money he received from outside businesses he operated. In September, 2016 he plead guilty to 12 count each of wire fraud and filing or preparing false tax returns, one count of mail fraud and one count of committing perjury.

Brewer ran two side businesses: he prepared tax returns for cash payments received (contrary to IRS regulations) and sold items on eBay (designer clothes, toys, sports memorabilia). He reduced his taxable income and increased his personal tax refunds by failing to report fees from his tax preparation business, under-reported his receipts from his internet retail business, and claimed false dependents on his federal tax returns. On his clients' tax returns he listed false dependents and false deductions. He diverted client refunds to himself.

In 2012, he lied under oath in US Tax Court about his residency in an attempt to fraudulently obtain a tax credit for first time homebuyers.

He is to be sentenced in 2017 and faces up to 20 years in jail on each wire fraud and mail fraud count, up to 3 years on each tax fraud count, and up to 5 years on the perjury counts. He must pay more than \$70k in restitution to the IRS, plus interest, penalties and fines.

**Alena Aleykina**, a certified public accountant and former IRS-Criminal Investigation Agent was indicted by a federal grand jury in Sacramento in October 2016 on 9 fraud charges. She is accused of claiming false filing statuses, dependents, and deductions and losses on her personal income tax returns for 2009, 2010, 2011. Allegations in the indictment include that she prepared false tax returns for herself, family members and on behalf of trusts between 2008-2013. She is accused of making false statements to representatives from the Dept. of Treasury, and attempting to obstruct a federal investigation by destroying evidence on a government computer. She is charged with fraudulently causing the IRS to issue IRS Tuition Assistance Reimbursement payments to her.

Together, Aleykina faces 6 counts of filing false income tax returns, one count of corruptly endeavoring to obstruct the internal revenue laws, one count of theft of government money and one count of destroying records during a federal investigation.

If convicted on all charges, Aleykina could spend up to 41 years in prison which include: statutory maximum 3 years for each count of filing a false tax return and corruptly endeavoring to obstruct the internal revenue laws, 10 years in prison for theft of government money and 20 years in prison for destruction of evidence.

## **IRS Criminal Tax Cases 2016 – S. Young and P. Driscoll**

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### **Steven H. Young**

Florida taxpayer Steven H. Young (St.Petersburg, FL) was sentenced 11/16 to 21 months in jail for tax evasion and ordered to pay \$500k in restitution to the IRS for tax evasion (2007-2011).

Young falsified expense records for his business to negate his income taxes for 2007-2011 (including taking marital tax credits when he was in fact single).

During an IRS Criminal Investigation Division inquiry, Young provided a fake lease agreement and invoices between his real estate company (Young Realty & Property Management) and a sham corporation in the Dominican Republic, tried to intercept bank records subject to a subpoena and fabricated a letter to Bank of America to re-direct his records to another address. He signed a plea agreement in 4/16. He was ordered by federal district judge to file corrected tax return for 2007-2011.

### **Patricia P. Driscoll**

In September 2016, federal prosecutors announced an 8 count indictment against Patricia P. Driscoll charging her with fraud and tax evasion as President of the Armed Forces Foundation, a Washington-based charity for veterans. Driscoll resigned 7/12/16 after 12 years at the military charity following reports by Kickin' the Tires (online site that covers NASCAR) and ESPN "Outside the Lines" that she misappropriated \$600,000 from 2006-2014.

The Foundation claimed that 94-96% of donations went directly to military members and their families. The charity reported \$2.3m in donations in 2014. Prosecutors allege that Driscoll reported sham donors and donations, failed to disclose fundraising commissions she received, spent foundation money on her personal expenses and lied to the IRS.

Driscoll was charged with two counts each of wire fraud, mail fraud and tax evasion and one count of attempts to interfere with administration of internal revenue laws. The charges span from 2010-2015.

## **IRS Criminal Tax Cases 2016 – Moses Hall**

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Moses Hall, a disbarred California attorney, was arrested in October 2016 on federal charges of running a mortgage modification scheme that defrauded more than 75 distressed homeowners in Orange County by inducing them to pay more than \$1.4m for services he never provided. The October 2016 federal grand jury indictment charged Hall with a 16 counts, one count of mail fraud, 13 counts of wire fraud and two tax charges. The tax charges were for interfering with the administration of the tax laws. Hall allegedly failed to file tax returns from 2008-2012 and failed to report more than \$1m in income. An indictment contains allegations that a defendant has committed a crime. Every defendant is presumed innocent until and unless proven guilty. If convicted of all 16 counts, Hall would face a maximum of 284 years in federal prison.

According to the 16 count indictment, Hall told distressed homeowners to stop making their mortgage payments and instead direct the monthly mortgage payments to him, purportedly so he could use the money to negotiate with the banks. Instead, as detailed in the indictment, Hall used the victims money for himself including withdrawing more than \$1m in cash from bank accounts into which the victims' payments had been deposited. Hall allegedly wrote checks to himself and his daughter and used \$25,000 cash to purchase a Mercedes Benz.

As stated by US Attorney Eileen M.Decker: "The defendant allegedly used his position as a licensed attorney to persuade victims that he could help them with their financial problems. Instead of working for his clients, the defendant simply pocketed the money to fund an extravagant lifestyle. He

has lost his license to practice law, and now faces a significant prison term for the alleged crimes.

## IRS Criminal Tax Cases 2016 – S. Hyatt

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**Saul Hyatt** of Weston, CT, used a Panamanian bank account to conceal over \$1.5m in income from the sale of duty-free alcohol and tobacco products. He plead guilty (9/16) to one count of conspiring to conceal assets and income from the IRS in an undeclared bank account in Panama held for his benefit. Hyatt allegedly conspired with another individual in the US and others to conceal his assets and income derived from the sale of duty-free alcohol and tobacco products. To execute the scheme, Hyatt used a registered Panamanian corporation, Centennial Group, to buy and sell the duty-free products.

From 2006-2012, Hyatt directed that \$1.6m+ in profits from the sale of the duty-free products be wired to his undeclared bank account in Panama. Hyatt repatriated the money to buy a Mercedes Benz and to pay for \$19,000 in interior design goods and services. Hyatt failed to report income earned on his Panamanian account and failed to file an FBAR for the years at issue. Hyatt admitted that the scheme resulted in a tax loss of \$521,986.

U.S. persons are required to report to the IRS Form 1040/Schedule B/Part 3 any financial interest in, or signature authority over, a financial account in a foreign country (Line #7). In addition, the US persons must report all income earned from foreign financial accounts (on Form 1040), and if the accounts have an aggregate value of more than \$10,000 at any time during the calendar year, file with the Department of Treasury FinCEN Form 114 (Report of Foreign Bank and Financial Account/FBAR).

Hyatt faces sentencing on 1/6/17. He faces a maximum sentence of 5 years in jail (instead of the 10 year penalty for willful failure to file an FBAR). Hyatt has agreed to file true and accurate tax returns and to pay the IRS all taxes and penalties owed. In addition he has agreed to pay the 50% FBAR penalty for failure to disclose his foreign accounts which FBAR penalty amounts to \$850k+ ( 50% of the undisclosed \$1.6m+ account)

Caroline D. Ciruolo, Asst. Atty. Gen., Head of the US Dept of Justice Tax Division stated: "The Dept. continues to vigorously pursue and prosecute those who conceal their assets and income in offshore accounts in an effort to evade paying their fair share of taxes."

Paul J. Fishman, US Atty. For the District of New Jersey, stated: "The Panamian banking system should not be a haven to hide profits made from US businesses. When American taxpayers use foreign bank accounts to hide their assets, we will investigate and prosecute them to the fullest extent of the law."

IRS CID Special Agent, Jonathan D. Larsen stated: "Concealing income and assets offshore is not tax planning. Plain and simple, this is international tax fraud. The facts in this case are clear."

Mr. Hyatt earned income through the sale of duty-free alcohol and tobacco products and intentionally had over \$1.6m in profits wired into an undeclared offshore bank account in Panama. Today's plea shows how determined we are at the IRS and the DOJ in uncovering this type of international tax fraud and putting a stop to it."

## **IRS Criminal Tax Cases 2016 – T. Sissom and M. Huynh**

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### **Troy L. Sissom**

Troy L. Sissom a project manager for FA Wilhelm Construction Co., whose job was to oversee construction projects stole more than \$2.7m from the company by creating false invoices for project materials and sending the funds to a post office box for a company (LTEE Source) he owned and depositing them into an account for his benefit. He faces over 20 years and jail and would be required to make restitution for the funds he stole.

According to the US Attorney: " Internal theft costs all consumers through higher prices on goods and services. Fraud, tax evasion and other white-collar crimes are offenses which ultimately take money out the consumer's pockets."

The IRS Criminal Investigation stated: "Tax Evasion is not a victimless crime...When people cheat on their taxes, honest taxpayers suffer the consequences and have to make up the loss, honest Americans have to "foot the bill".

### **Michael Huynh**

In September 2016 a federal jury in Los Angeles convicted Michael Huynh (Northridge, CA) for his role in a health care fraud scheme and for filing false income tax returns. He was convicted of one count of conspiracy to commit health care fraud and 11 counts of filing false income tax returns.

Huynh, the office manager and part-owner of a medical clinic, provided false prescriptions to a pharmacist and co-conspirator, Farhad N. Dany Sharim,

who submitted false claims to insurance companies for drugs that were never dispensed. Once Sharim received payments from the insurance companies, he paid Huynh for the false prescriptions. Between 1/04 and 11/09 Huynh received 82 checks from Sharim totaling over \$1.1m. Between 2007-2011, Huynh filed false tax returns for tax years 2007-2011 that underreported the medical clinic's gross receipts and sales on the corporate tax returns and total income on the individual tax returns (under reported income over \$1.6m).

Sharim pleaded guilty to one count of conspiracy to commit health care fraud and awaits sentencing.

