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Where shrewd financing meets tax evasion

"Offshore accounts" aren't just for the powerboating jet-set anymore. But if you have one and try to hide it from the IRS, it's still just as illegal.

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Looking to protect his modest fortune from the tax man, Safety Harbor business owner William Tiner traveled in 1998 to a sun-drenched resort in Belize for a seminar on offshore trusts.

One night at a beach bar, Tiner spoke with other participants about the "concept of not paying any taxes" by moving assets offshore, away from the Internal Revenue Service. He told the small group at the table that in his experience, the IRS wouldn't target anyone unless they were given a reason to snoop.

"And if you don't tell them anything," Tiner said, "they don't know nothing."

What Tiner didn't know was that an undercover IRS agent was recording every word.

That taped conversation helped prosecutors convict Tiner last month in Tampa's federal court of using fraudulent trusts to evade about $900,000 in taxes.

And Tiner wasn't the only local businessman who used the tax program.

The founder of the Hooters restaurant chain, Lynn "L.D." Stewart, failed to report millions of dollars in income, according to federal court documents filed in Tampa. Stewart has not been charged, however, and federal investigators would not discuss matters relating to him.

Stewart was misled by financial advisers he no longer employs, according to his attorney Anthony LaSpada.

"We feel that he has done nothing wrong," LaSpada told the Times.

Tiner's arrest came as part of a nationwide crackdown on abusive and fraudulent offshore trusts, a push that began in the late 1990s. Those kinds of trusts, and related offshore financial manuevers, account for one of the largest losses of tax revenue each year, experts say.

Despite the increased scrutiny, new offshore trust promotions pop up weekly on the Internet. And the secrecy that shrouds many foreign banking systems makes Tiner's conviction the exception, not the rule. Most people get away with it.

"This is a big problem," said St. Petersburg IRS Special Agent Alycyn Culbertson. "The bottom line is this: If we all paid our fair share of taxes, we would all pay less."

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The mention of offshore bank accounts often evokes images of drug dealers or the ultrarich stashing loads of cash and other assets in some tropical paradise. Setting up and managing such trusts was thought to be complicated, time consuming and expensive.

No more.

Tax havens such as Belize, Grenada and Aruba have made moving money out of the IRS's grasp as easy as renting a car, according to Donald Barlett and James Steele in The Great American Tax Dodge.

It's not illegal for Americans to move money into offshore accounts, but anyone who opens one must, by law, report it to the IRS. And any investment income earned from the assests in the trust - stocks, bonds, real estate, etc. - must also be reported because it is taxable.

Shifting untaxed income into a tax haven without declaring it to the IRS is tax evasion.

The problem for investigators is following the money.

The tax havens have strict confidentially laws about disclosing financial and banking information. For the most part, the countries do not require that the trusts be recorded, so tracking a specific trust is close to impossible.

Once assets are hidden, the owners often use debit or credit cards issued by a foreign bank for purchases in the United States.

"Escaping taxes levied by the United States or other developed countries is viewed by the tax havens as an inalienable right, much like free speech or freedom of assembly," wrote Barlett and Steele.

Some of the participants are antigovernment types. Some are greedy, and some do it because they can get away with it.

Whatever the reason, Barlett and Steele estimated in 2000 that about $500-billion was held offshore by Americans trying to evade taxes.

The cost?

"Their offshore arrangements allow these people to escape payment of income taxes that add up to the equivalent of every tax dollar paid by everyone in New York state and New Jersey who earns less than $200,000 a year," wrote Barlett and Steele.

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Tiner told the Times Wednesday that he regretted getting wrapped up in the trusts.

"I take full responsibility," said Tiner, 60. "But you have to realize that from the start my accountant, my lawyer and my financial adviser all said this was legal."

Tiner said he was looking to set up his retirement from his company, WLT Software of Florida. A friend introduced him to Michael Maricle, a certified public accountant in Clearwater who pitched a trust system run by Aegis, a Chicago-based company.

Tiner bought into the system in 1996, at first using domestic and charitable trusts to shield his assets from the IRS. The government claimed that Tiner moved income from his software company into several trusts, which then reported the money as "management fees" instead of income.

The bookkeeping sleight of hand, which included shuffling money from trust to trust, created the impression that Tiner was not managing the business, when in fact he had control over the business and all the money it made, the government said.

In 1998, Tiner bought in to Aegis' foreign trust system, which helped him set up bank accounts in Antigua in the names of new foreign companies to further conceal his income, according to court documents. He used a credit card to access his money.

At the beachside bar that night in 1998, Tiner told the friendly undercover agent that when the IRS targets someone, they negotiate a settlement almost every time.

"So what's it gonna cost you? Money? The taxes you are already saving is worth it," Tiner said. "... I'll always live my life that way."

At Tiner's trial in January, the prosecutor argued that from 1996 to 1999 Tiner's company paid more than $2.5-million into the trusts, disguising the money as management fees instead of income to avoid taxes. One year he only declared $9,673 in income, according to court documents.

The jury heard the undercover tape. They also heard from Maricle, Tiner's accountant, who had a deal with prosecutors. Maricle confirmed that the system was set up to help his clients evade taxes.

The jury convicted Tiner of four counts of tax evasion and three counts of filing false income tax returns. He could face a lengthy prison sentence.

During the trial, Maricle testified Hooters founder Lynn Stewart used the Aegis tax system. Maricle's written plea agreement states that he prepared numerous tax returns for Stewart in "order to accomplish the unlawful tax consequences of the scheme."

Stewart bought in to the Aegis program for $180,000 in 1995, after he sold his interest in Hooters for about $10-million, plus future payouts exceeding $20-million, the plea deal states.

Maricle fraudulently shifted taxable income to trusts and also filed tax returns that failed to report investment income earned while the money was in those trusts, according to the plea deal.

Stewart "reported and paid taxes on only a nominal amount of this income," the agreement states. Stewart's 1998 tax return stated his total income as $499,052 when it actually exceeded $7-million, according to the agreement.

LaSpada, Stewart's attorney, said his client no longer has any involvement with the Aegis trusts. Stewart's former lawyers, accountants and financial planners told him the system was legitimate, LaSpada said.

"He has new financial advisers," LaSpada said. "No charges of wrongdoing have been filed to date, and we are hopeful that none will be filed in the future."

At Maricle's sentencing earlier this month, Maricle's attorney said his client was cooperating with a "mammoth investigation" in Chicago. Prosecutor Jay Hoffer confirmed for the judge that Maricle was cooperating with a "matter in Chicago" and other investigations.

The judge sentenced Maricle to 30 months in prison, though the sentence could be shortened depending on the extent of his further cooperation with prosecutors.

"I know now what I did was wrong," Tiner said. "But why am I and Maricle the only ones going down for it? Many other people did the exact same thing and the investigators know who they are."

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Winning a conviction against someone who uses offshore trusts is not easy, given that they often argue they have been duped by accountants or financial advisers, said Bill Haslinger, a professor in the economic crime investigation department at Hilbert College in New York.

"I know the IRS has put an emphasis on investigating these trusts," he said. "But it's still an uphill battle, especially given that the promotions for these things come from all directions, from big financial planning firms to Web-based companies."

Some Web-based come-ons target anyone with as little as $500 to spend and a handful of assets to send offshore.

San Francisco tax attorney Robert Sommers, who has testified about Web-based tax scams before the Senate Finance Committee, thought the IRS might be starting to make a dent in getting offshore trust abuse under control.

"But they cannot just slam on the brakes of an aircraft carrier," he said.

To help track them down, the government has subpoenaed credit card records and used information from merchants in the United States who sold products to trust abusers. The government has also started to pressure some countries to make their banking systems more transparent.

The government also offered amnesty to people who had not been reporting their trusts. The response was minimal, about 1,200 people, Sommers said. But those who got amnesty turned over promotional material and provided investigators with leads.

"Just having all that information dropped in their lap at very little cost to the government is a creative strategy," Sommers said. "One person could lead to 100 or 1,000 others involved in the same program."

Tiner will be sentenced in May. He said he has transferred the software company to his children's control. They are looking for a new accountant, he said.

He advised anyone who thinks an offshore trust might be a good idea to think again.

"Don't be greedy," he said. "If it's too good to be true, it is. I've always lived by that motto. I don't know what happened to me this time around. I must have had blinders on."

WHAT IS A TRUST?

A trust is a very flexible legal device that can hold title to property and assets. One entity sets up a trust (the settlor). A second entity (the trustee) manages the trust for the benefit of a third party (the beneficiaries).

Trusts are often associated with the offspring from wealthy families. But trusts can be set up for myriad reasons, including conducting business, starting a charity or paying for someone's education. Sometimes trusts can limit taxes, but often assets and income are subject to taxes. Offshore trusts aren't under U.S. jurisdiction.