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**BODY:**

In one of its broadest efforts to rein in what it regards as abusive tax shelter activity among well-to-do professionals, the Internal Revenue Service is seeking to shut down a group of California companies that have sold millions of dollars' worth of insurance and other purportedly tax-favored investments to doctors and dentists.

At the IRS's request, a federal court in California this week froze more than \$500 million in assets held by **Xelan** Inc., several related companies, including an insurance company based in Barbados, the charitable **Xelan** Foundation, and a number of the firm's officials. The judge also appointed a temporary receiver for **Xelan** and its affiliated companies. The Justice Department announced the action Thursday.

The IRS is asking the court to appoint a permanent receiver for the assets, which are held in banks, mutual funds and other financial institutions in the United States and abroad.

A hearing on that request is scheduled for Nov. 18.

"This is one of the biggest cases we have seen in years. One of our top enforcement priorities is to go after high-income professionals who ignore that law. This is a scheme involving literally thousands of doctors and dentists who let their greed get the better of them," Internal Revenue Commissioner Mark W. Everson said in a prepared statement yesterday.

The IRS contends, in a civil fraud complaint unsealed Thursday, that **Xelan** sold fraudulent tax-reduction schemes to some 4,000 doctors, who now could owe as much as \$420 million in taxes, penalties and interest. Court papers filed in connection with the case disclose that hundreds of doctors already have been audited.

The court documents also show that the IRS used undercover agents to tape-record conversations with **Xelan** officials, including a former IRS agent and lawyer who was representing some **Xelan** clients in their federal audits.

Five **Xelan**-related entities are now in Chapter 11 bankruptcy proceedings, and the IRS told the court **Xelan** is being sued by a number of dissatisfied clients. Calls to **Xelan** headquarters were not returned yesterday. The company, founded by L. Donald Guess, also is currently the subject of a federal criminal investigation, court papers said.

According to the IRS, **Xelan** persuaded doctors to buy large amounts of supplemental insurance, which it incorrectly represented as fully deductible to corporations the doctors owned. And, the IRS charged, the company told doctors they could make payments such as college tuition for their children tax-deductible by making them through the company's foundation.

Washington lawyer Michael C. Durney, who represents a number of the doctors, said his clients dispute the IRS's characterization of **Xelan's** products. "The **Xelan** Foundation and the supplemental insurance programs offered through **Xelan** are legitimate operations," he said. "They are neither a scam nor an abusive tax shelter."

Durney said his clients put money into **Xelan** "in good faith and for regular charitable and business purposes."

"We believe the IRS is incorrect if it believes otherwise," he said.

As part of their focus on high-income individuals, IRS officials have met with officials of the American Medical Association and the American Dental Association over the past three years to try to educate members on tax rights and obligations. Since fiscal 2001, the IRS has won more than 100 criminal convictions of medical professionals, according to agency statistics.

Among the issues in the **Xelan** case is whether the insurance issued by the company's disability trust was insurance at all, and if it was, whether it served a legitimate business purpose. The IRS has been studying this issue, according to court documents, but its preliminary conclusion is that what was offered was not insurance.

At the same time, agency officials noted that tax deductions for payments to such a trust are limited to the actual cost of buying the insurance.

Federal agents said in sworn statements filed in the case that they found evidence the Barbados insurance company was controlled by **Xelan** officials and that between early 2002 and early this year, the Barbados company transferred more than \$30 million of the doctors' insurance premiums back to an account of **Xelan's** general counsel. The money was then used for legal fees to fight the IRS investigation and to defend some doctors being audited, the statements said.

In June of 2003, Guess was recorded telling **Xelan** financial counselors how to sell clients on the company's products, one agent wrote. Guess told the salesmen to tell potential customers the tax laws might change, "but we always have an exit strategy," adding, "You can't possibly get hurt. You may not end up even, you may not have won all the stuff, but you're not going to be behind."