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Ken Berry, JD • Nov. 15, 2017

The chances of a tax protestor prevailing in court are slim to nil. Typically, taxpayers will argue that payment of tax is strictly voluntary or unconstitutional or they don't have to pay taxes on religious or moral grounds, to no avail. But they keep trying.

IRS knows best. In a new case, a couple received more than one-half million dollars from Fidelity in 2012, but reported zero taxable income on their return. After they were assessed a deficiency by the IRS, they argued the income they received wasn't taxable because the IRS had no first-hand knowledge of the income giving rise to the deficiency. But the Tax Court upheld the back taxes and tacked on accuracy-related and frivolous argument penalties (Jagos, TC Memo. 2017-202, 10/16/17).

Remember the Alamo case. Another taxpayer tried a slightly different approach. Essentially, Mr. Alamo failed to file a tax return for 2009 and then claimed that he didn't receive a notice of deficiency from the IRS. Subsequently, he asserted that the IRS didn't follow proper procedures in assessing the tax that he owed. In addition, he contested the tax on its merits. Although Alamo never surrendered, he lost this battle in court (Alamo, TC Memo 2017-215, 10/31/17).

Doing time for the crime. There's could be more than money at stake for tax protestors. Take the example of actor Wesley Snipes, star of "White Men Can't Jump" and other movies. Snipes was prosecuted for failing to file tax returns and falsifying refunds claim of more than \$10 million. He argued that the domestic income of U.S. citizens isn't legally taxable. Eventually, Snipes was found guilty of willfully failing to file federal income tax returns and served three years in prison.

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