



1001

CRIMINAL TAX

**THE CRIMINAL TAX PROCESS
MADE SIMPLE**

by Eric Green & Tax Rep Network

MINI GUIDE

INTRODUCTION

Internal Revenue Service Criminal Investigation (CI) serves the American public by investigating potential criminal violations of the Internal Revenue Code and related financial crimes in a manner that fosters confidence in the tax system and compliance with the law. This is an area of enforcement the IRS takes very seriously, and for those cases it does identify it will generally put considerable resources behind their investigation and prosecution. The reason for this professional zeal is that the IRS knows the number of prosecutions in relation to the number of tax cheats is small, so it makes every effort to prosecute those caught and to spread the word so that it deters similar conduct from other taxpayers.

This Mini Guide will walk you through the various tax crimes, how criminal tax cases begin, and the impact of tax loss on sentencing.

This Mini Guide includes:

- 1. The Crimes**
- 2. Role of Tax Loss in Sentencing**
- 3. Exhibits: Sample Criminal Tax Documents**

LESSON # 1

THE CRIMES

When it comes to taxes, there are numerous tax and other financial crimes that are committed. These include all of the following:

- Tax Evasion - IRC § 7201
- Willful Failure to Collect or Pay Over Employment Taxes - IRC § 7202
- Failure to File a Tax Return, Supply Information or Pay Tax - IRC § 7203
- Filing a False Return or Providing False Information - IRC § 7206(1)
- Aiding & Abetting in the Filing of a False return or Providing False Information - IRC § 7206(2)
- Interference with Administration of the Internal Revenue Laws - IRC § 7212
- False Statements - 18 U.S.C. § 1001
- Perjury - 18 U.S.C. § 1621
- Conspiracy - 18 U.S.C. § 371
- Mail & Wire Fraud - 18 U.S.C. § 1341

This guide will focus on the crimes in the Internal Revenue Code (IRC § 7201 - § 7212).

Tax Evasion: Tax Evasion - IRC § 7201

There are two types of tax evasion: evasion of liability and the evasion of payment. Evasion of Liability is the one you probably think of when you hear the words Tax Evasion. This is where the taxpayer files a false tax return, either overstating their expenses or failing to report certain items of income. Either way, the taxpayer is evading taxes by giving the government information so that it cannot accurately calculate income.

Evasion of payment is where the taxpayer takes active steps to avoid paying a tax liability that they owe. Affirmative steps of evasion can include any or all of the following:

- Hiding assets in the names of other people
- Providing false information on a collection information statement
- Cashing checks to avoid bank levies

Tax Evasion is probably the most common and well-known tax crime. There are, however, several others that practitioners need to be aware of and watch out for in their own practices.

Willful Failure to Collect or Pay Over Employment Taxes - IRC § 7202

IRC § 7202 makes the failure of an employer to account and pay over the payroll taxes a felony. The actual statute states:

Any person required under this title to collect, account for, and pay over any tax imposed by this title who willfully fails to collect or truthfully account for and pay over such tax shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined* not more than \$10,000, or imprisoned not more than five years, or both, together with the costs of prosecution.

This statute describes two offenses:

- (1) a willful failure to collect; and
- (2) (2) a willful failure to truthfully account for and pay over tax.

IRC § 7202 was designed primarily to assure compliance by third parties obligated to collect excise taxes and to deduct from wages paid to employees the employees' share of Federal Insurance Contribution Act (FICA) taxes and the withholding tax on wages applicable to individual income taxes. The withheld sums are commonly referred to as "trust fund taxes" because the employer is holding those funds in trust for the United States Government.

In order for the IRS and Department of Justice ("DOJ") to establish that a taxpayer violated this criminal statute, it needs to show beyond a reasonable doubt that:

- There was a duty for the taxpayer to collect, and/or to truthfully account for and pay over taxes; and
- The taxpayer failed to properly collect, or truthfully account for and pay over those taxes; and
- That the failure to do so was willful.

The duty of employers to truthfully account for and pay over is set forth in IRC §§ 3102(s), 3111(a), and 3402 (1986). More specifically, it is the individual responsible for making the payment and filing the returns who is culpable when there is a failure to perform this duty. It is that individual (or individuals) that the IRS and DOJ would seek to prosecute. See Exhibit 29 for a sample indictment for a criminal I.R.C. § 7202 payroll tax charge.

Historically, the Department of Justice Tax Division's position has been that a willful failure to truthfully account for and pay over is a "dual obligation." The position that the government must prove the defendant violated both elements to get a conviction has been rejected by the courts. As an example, in *United States vs. Evangelista*, the Second Circuit held a violation of § 7202 can result from either a failure to account for withholding taxes and FICA contributions or a failure to pay over such taxes, but the statute does not require both to sustain a conviction.

Thus, the duty of the taxpayer is to both account for (by filing accurate returns) and pay over (remit to the government) the taxes due. Failure to do either may result in criminal prosecution.

The requirement that the violation of IRC § 7202 be willful is the same as all tax offenses: that the government show the defendant voluntarily and intentionally acted in violation of a known legal duty.

Failure to File a Tax Return, Supply Information or Pay Tax - IRC § 7203

IRC § 7203 makes it a misdemeanor for any person required to pay any estimated tax or tax, or make a return, keep any records, or supply any information, who willfully fails to pay such estimated tax or tax, make such return, keep such records, or supply such information, at the time or times required by law. The penalties for failing to do so include fines up to \$25,000 (\$100,000 in the case of a corporation), or imprisonment not more than 1 year, or both, together with the costs of prosecution.

Filing a False Return or Providing False Information - IRC § 7206

IRC § 7206 has two parts to it – one for the submission of a false return signed under penalty of perjury, and one for those who counsel false returns or providing false information to the IRS:

- (1) Anyone who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; or
- (2) Anyone who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document

Violations of IRC § 7206 can include the filing of a false return, lying to an IRS agent, providing a false Collection Information Statement as part of a collection case, or providing false documents to the IRS (for instance, doctored receipts to support false expenses claimed on a return). Practitioners need to be careful when presenting information or making statements to the IRS to take reasonable steps that they feel confident that the information provided is accurate.

Interference with Administration of the Internal Revenue Laws - IRC § 7212

IRC § 7212 makes it a felony for anyone to impede, obstruct or interfere, by force or otherwise, with the government attempting to do its job or “rescuing” property that was seized by the IRS. IRC § 7212 violations can include destroying records, hiding assets, threatening witnesses, attempting to bribe witnesses, or actually taking back assets from the government that was legitimately seized. The most common violations of IRC § 7212 occur when clients destroy records or ask witnesses to not speak to the government or to lie to the government to cover for them. Hence, one of the first pieces of advice we give clients that are the target of an investigation is to not speak to witnesses, as any contact could be considered obstruction.

LESSON # 2

ROLE OF TAX LOSS IN SENTENCING

There are a number of elements involved in the sentencing of a criminal tax defendant. One of these is the sentence calculated under the Federal Sentencing Guidelines. Though the United States Supreme Court has ruled that the sentencing guidelines are not mandatory and are only recommendations, they are usually the starting point for any decision by the government and sentencing judge. This is one of the reasons that the tax loss calculation, and attacking the government's numbers, are so critical.

For tax crimes, with one exception, the tax loss number is limited to just the tax and does not include penalties or interest. The exception to that rule is for evasion of payment cases under IRC § 7201. For evasion of payment cases the penalty and interest that would have been paid otherwise is included in the loss calculation. In addition, though most tax crimes have limited statute of limitations of 6 years, prior years can be brought in under a theory of relevant conduct and added to the tax loss numbers presented by the government.

EXHIBITS

SAMPLE CRIMINAL TAX DOCUMENTS

What follows are sample criminal tax exhibits we thought you would find helpful. They include the following:

1. IRM Fraud Sections and Fraud referral Checklist
2. Sample IRS-CI Target Letter
3. Sample Department of Justice Target Letter
4. Sample IRS-CI Letter Closing Its Investigation and referring the case back to the civil exam function
5. Sample IRS-CI Letter referring the case to the Department of Justice for prosecution
6. Sample letter requesting a conference with the Department of Justice
7. Sample Information. Which is where the client agrees to plead guilty and avoids having the government go through the formal indictment process
8. Sample Plea agreement
9. Tax Loss Table from the Federal Sentencing Guidelines Manual
10. Federal Sentencing Table from the Federal Sentencing Guidelines Manual



ABOUT ERIC L. GREEN, ESQ.

Eric is a managing partner in Green & Sklarz LLC, a boutique tax firm with offices in Connecticut and New York. The focus of Attorney Eric L. Green's practice is civil and criminal taxpayer representation before the Department of Justice Tax Division, Internal Revenue Service and state Departments of Revenue Services. He is a frequent lecturer on tax topics for many national organizations, including Insightful Accountant, CCH, the NAEA, the NATP, the ABA Tax Section and the Connecticut Society of CPAs. Attorney Green has served as adjunct faculty at the *University of Connecticut School of Law*. He was the author and lecturer of the *CCH IRS Representation Certificate Program*, and has served as a columnist for *CCH's Journal of Practice & Procedure*. He is the founder of *Tax Rep LLC* which coaches accountants and attorneys on building their own IRS Representation practices, and is the host of the weekly *Tax Rep Network Podcast*.

Mr. Green is the author of *The Accountant's Guide to IRS Collection*, *The Accountant's Guide to Resolving Tax Debts* and *The Accountant's Guide to Resolving Payroll Tax Debts*. He is a contributing author for *Advocating for Low Income Taxpayers: A Clinical Studies Casebook, 3rd Edition*, and has also been quoted in *USA Today*, *Consumer Reports*, *The Wall Street Journal's Market Watch*, *TheStreet.com*, *The Wall Street Journal* and *CreditCard.com*.

Prior to practicing law Attorney Green served as a senior tax consultant for KPMG and Deloitte & Touche.

Attorney Green was the 2010 Nolan Fellow of the American Bar Association and has served as Chair of the American Bar Association's Closely Held Businesses Tax Committee. Attorney Green is a past Chair of the Executive Committee of the Connecticut Bar Association's Tax Section. Eric is a Fellow of the *American College of Tax Counsel* ("ACTC").

Attorney Green is also a member of the Connecticut, Massachusetts and New York Bar Associations, as well as the American Bar Association. Attorney Green is admitted to practice in Massachusetts, New York and Connecticut Superior Courts, the United States Tax Court, The Federal Court of Claims and the Federal District Court for Connecticut. Attorney Green received his Bachelor of Business Administration degree in Accounting with a minor in International Business from Hofstra University and is an honors graduate from New England School of Law. He earned a Masters of Laws in Taxation (LL.M.) from Boston University School of Law.

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A handwritten signature in blue ink, appearing to read "E. L. Green". The signature is fluid and cursive, written on a white background.

EMPLOYEE PLANS DETERMINATIONS QUALITY ASSURANCE BULLETIN

Fraud Referral Procedures

FY-2006 No. 1

Date: January 6, 2006

The purpose of this bulletin is to provide an overview of fraud and to provide EP Determination Specialists with procedures to follow when they believe a case has the potential to involve fraud.

OVERVIEW

The Fraud Handbook is located in IRM 25.1. Section 25.1.1.1 provides an overview of fraud and also defines and details the elements of fraud.

Generally, for fraud to be considered, a Specialist must show:

- a. An additional tax due and owing due to deliberate intent to evade tax; **or**
- b. The willful and material submission of false statements or false documents in connection with an application and/or return.

Definition of Fraud

IRM Section 25.1.1.2 provides the following definition of Fraud:

(1) Fraud is deception by misrepresentation of material facts, or silence when good faith requires expression, resulting in material damage to one who relies on it and has the right to rely on it. Simply stated, it is obtaining something of value from someone else through deceit.

(2) Tax fraud is often defined as an intentional wrongdoing on the part of a taxpayer, with the specific purpose of evading a tax known or believed to be owing. Tax fraud requires both:

- An underpayment; and
- A fraudulent intent.

The Role of TEGE

IRM 25.1.9 outlines guidelines which apply to TEGE determination letter applications and returns under the TEGE jurisdiction.

Qualified employee plans receive favored tax treatment through a deduction for contributions by the employer, tax exemption for the related trust, and deferral of income by the employee. Fraud occurs when these favorable tax treatments are obtained through fraudulent means. These tax advantages can be used in criminal cases to meet the requirements that a tax be due and owing as described in IRC 7201 (Attempt to Evade or Defeat Tax) and that damage inures to the Government as described in IRC 7206 (Fraudulent or False Statement)

IRM Section 25.1.9.5 states that IRC 7206(1) (Declarations under penalties of perjury) is the criminal provision most useful to TE/GE. Determination applications are filed under penalties of perjury.

IRC 7206(1) applies to tax returns as well as other documents. A prima facie violation of IRC 7206(1) can be proven in the absence of a provable tax deficiency. For example, filing a determination letter application containing false statements or submitting falsified documents in support of such an application would give rise to a potential IRC 7206(1) prosecution if the falsifications are shown to be willful and material.

IRM Section 25.1.9.4 defines the term taxpayer, for TEGE purposes, as anyone who participates in any way in filing an application for exempt status or determination, preparing required returns, operating a plan, trust, or organization.

Indicators of Fraud (IRM 25.1.1.3)

Taxpayers who knowingly understate their tax liability often leave evidence in the form of identifying earmarks, or indicators. Fraud indicators can consist of one or more acts of intentional wrongdoing on the part of the taxpayer with the specific purpose of evading tax. Fraud indicators may be divided into two categories:

- **Affirmative Indications of Fraud** serve as a sign or symptom, or signify that actions *may* have been done for the purpose of deceit, concealment or to make things seem other than what they are.
- **Affirmative Acts of Fraud** are those actions that establish that a particular process *was* deliberately done for the purpose of deceit, subterfuge, camouflage, concealment, some attempt to color or obscure events, or make things seem other than what they are.

Example:

Affirmative indication: The specialist requested documentation to establish that a plan was timely amended to comply with TRA 86. The taxpayer procrastinated in providing the required information and only submitted information that was submitted with the original application, including a previously submitted plan document that has been altered to reflect an earlier execution date. (This would be an indicator as it is a sign that something may have been done for the purpose of deceit, concealment, or to make things seem other than what they are.)

Affirmative Act: In following up on the discrepancy, the specialist discovered that the act of “backdating” was deliberately done for the purpose of hiding the fact that the plan was not timely amended to comply with TRA 86. (This is an affirmative act as it was specifically done for the purpose of deceit, concealment, or to make things seem other than what they are)

No fraud can be found in any case unless affirmative acts are present.

IRM Section 25.1.2.2 lists several examples of fraud indicators. The lists are not all-inclusive and are only indicative of the types of actions taxpayers may take to deceive or defraud. The list includes several indicators that are more likely to be encountered during a review of tax records. While Specialists do not routinely have access to tax records, Specialists may, during a review of a determination letter application, encounter other fraud indicators that will lead Specialists to suspect fraud may be an issue.

Some examples of fraud indicators that may be encountered by Specialists include “backdating” or altering of documents. For example, Specialists may see evidence that appears to indicate that documents may have been “backdated” to enable the plan to continue to meet qualification requirements, especially when requesting evidence of prior plan compliance. Specialists reviewing Form 5310 applications may see evidence of altered documents, such as loan documents.

Making a false statement on TEGE determination letter applications is another indication of fraud that Specialists may encounter. Specialists may also receive information of possible fraudulent activities from sources such as informants or interested party comments.

Procedures

While not all potentially fraudulent cases identified by specialists may actually end up being referred for fraud, it is important that specialists discuss the issue with the group manager, at a minimum. Cases in which fraud is not pursued may nonetheless be referred to other areas for further review. For example, cases may be referred to EP Examination (see [Quality Assurance Bulletin 2004-3](#)), the Office of Professional Responsibility, or the EP Tax Shelter Coordinator, for possibly abusive transactions or emerging issues.

In an effort to work toward the detection and deterrence of Fraud in Employee Plans Determinations, we will be assisted by the EP Fraud Coordinator (EPFC), located in EP Examinations Special Review. The EPFC will serve as a contact person jointly with the Fraud Technical Advisors (FTA) assigned to the SB/SE division. Senior EP Determination Reviewer Robert Contreras is designated the EP Determination Fraud Reviewer.

The FTA plays a vital role in the development of a potential fraud case. The FTA serves as a cross-functional resource person and liaison to compliance employees in all the compliance divisions or business organizations.

The EPFC provides support to EP Examination agents in developing and pursuing fraud cases. The EPFC is one of the fraud liaisons within TE/GE. All of the Fraud Coordinators within TE/GE are responsible for working with other Fraud Coordinators within TE/GE and familiarizing themselves with each other’s policies.

To assist Determination Specialists in processing possibly fraudulent cases, the following procedures are to be implemented immediately.

A. Fraud Development

1. As soon as an EP specialist discovers indicators of fraud, he/she should discuss the issue with the group manager.
2. If the group manager concurs, the EP specialist will contact the EP Determination Fraud Reviewer, who will arrange a meeting with the EPFC to discuss the indicators of fraud. If the EPFC determines that the case does not appear to have fraud potential, the determination will be made as to whether a referral is appropriate, be it to EP Examination, the Office of Professional Responsibility, or the EP Tax Shelter Coordinator.
3. The EPFC will contact a FTA if the case has fraud potential. If the FTA agrees, the EPFC will arrange a 5-way conference call or meeting with the EP specialist, EP group manager, EP Determination Fraud Reviewer and FTA to discuss the case. If all parties agree that the case should be developed for fraud, the EP specialist will complete Form 11661 (Fraud Development Status, see Attachment 1) and forward it to the EPFC for signature. At a minimum, the specialist should complete lines 1a, 1c, 2 and 3.
4. The EPFC will forward the Form 11661 to the FTA for joint signature. The EPFC and/or the FTA will prepare a plan of action (procedures with respect to fraud development) and forward both to the EP specialist. Under no circumstances should the EP specialist or the EP group manager contact CID at this stage.
5. Upon receipt of a signed Form 11661, the EP specialist will update the case to Status 37 and proceed with the plan of action (see Attachment 2, Development check sheet Form 11660). Status 37 should be used until a new status code is established. The EP Specialist should forward a copy of the signed Form 11661 to the EP Determination Fraud Reviewer, who will maintain a log of all signed Forms 11661.
6. During the fraud development phase, one of the following will occur:
 - The case will be returned to status 52 and worked as a routine case.
 - The case will be referred to EP Exam for pursuit of civil fraud.
 - The case will be referred to CID for criminal investigation

B. Civil Fraud

1. Once it is determined that criminal fraud is not an issue, the criminal proceeding has been completed, and/or that civil fraud is considered an issue, the EP specialist will complete the development and write up the penalty issue. The EPFC and/or the FTA will assist with the write up if the need arises.

An understatement of tax liability must exist in order to pursue civil fraud. EP Determinations personnel may not be in the position to make this determination due to the unavailability of tax return information. Once it is determined that criminal fraud is not an issue, the criminal proceeding has been completed, and/or that civil fraud is considered an issue, the EP specialist will refer the case, via the EP Determination Fraud Reviewer, to the EPFC for necessary action with regard to civil fraud penalty calculations.

C. Criminal Fraud

1. Once affirmative acts (actions taken by the taxpayer that establish criminal intent) have been established, the EP specialist will suspend all determination activity and refer the case to CID. The referral will be made via Form 2797 (Referral Report of Potential Criminal Fraud Cases, see Attachment 3) and the FTA and the EP Determination Fraud Reviewer will assist in the preparation if the need arises.
2. The completed Form 2797 will be routed through the EP group manager, the EP Determination Fraud Reviewer, FTA and FTA manager for review and concurrence.
3. The FTA manager will forward the approved Form 2797 to the appropriate CID Field Office for consideration.
4. The special agent assigned to evaluate the criminal fraud referral will arrange an initial meeting to discuss the merits of the case. The EP specialist, EP group manager, FTA, EPFC, Determination Fraud Reviewer and the supervisory special agent will be invited to attend.
5. CID will conduct a disposition conference within 30 days of receipt of the criminal fraud referral to discuss acceptance or denial of the referral.
6. If the criminal fraud referral is accepted, CID usually makes a request for a cooperating examiner. As the referral would involve a determination application, CID may request a cooperating EP Determination Specialist. The request is made on Form 2797 and it usually involves the initiator.

7. If a criminal fraud referral is accepted, the Status Code will still reflect Status 37.

D. Criminal Investigation's request for a cooperating examiner in joint Investigations

1. Requests for a cooperating specialist in EP Determinations are made through the Manager of EP Determinations.
2. The following individuals are used as back-up:

EP Determinations Area Managers

E. Forms

1. A copy of the Form 11660, Form 11661 and Form 2797, which are completed in the process and returned to the EP specialist, should remain in the case file on the left side of the file, as they are not open to public inspection. In addition, forms submitted on all fraud cases to the EPFC will be maintained by the EPFC and the Determination Fraud Reviewer as documented involvement.

Both the Form 11661 and the Form 2797 request tax return information which may not be available to a determination specialist. The specialist should complete the forms to the extent possible. The EP Determination Fraud Reviewer will be available for assistance.

Attachment 1: Form 11661, Fraud Development Status

Fraud Development Status

1a. Name and Address of Taxpayer _____ _____ _____ 1b. TIN: _____	1c. Personal Data Age: _____ Health: _____ Education: _____ Occupation: _____
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2. Potential Tax Fraud:

a. Omitted Income
 b. False Expenses/ Deductions
 c. Failure to File or Pay
 d. Altered/False Documents
 e. Evasion of Payment
 f. Other _____

3. Describe the potential indicators of fraud, including supporting evidence, and the method used to compute omitted income (if applicable).

4. Tax Return Information:

a. Year/MFT				
b. Taxable Income Per Return *				
c. Potential Adjustments Due To Fraud *				
d. Corrected Taxable Income *				
e. Corrected Tax *				
f. Potential Deficiency Due To Fraud *				
g. Outstanding Tax Only Amount *				

5. Initiator (Print)	Grade	Phone #	Signature	Date
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6. Group Manager (Print)	Group	Phone #	Signature	Date
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7. Recommendation	Yes/No	Years	Signature of Fraud Referral Specialist	Date
a. Input ICS Sub-code 910 (Collection) **				
b. Remove ICS Sub-code 910 (Collection) **				
c. Update to Statue 17 (Exam) ***				
d. Return to Status 12 (Exam) ***				
e. Criminal Fraud Referral				
f. Assert Civil Fraud Penalty				

* If applicable
 ** ICS Case History used to document action taken
 *** Form 5348 used to change the status code

Attachment 1: Form 11661, *Fraud Development Status*,

Continued

**Instructions
for Preparation
of Fraud
Development
Status
(Form 11661)**

This form should be completed by the Examiner, Revenue Officer or jointly with the fraud Referral Specialist.

Item	Action
1a, b, c	Identify the taxpayer. Enter last known address. To the extent you do not have the facts, give estimates of taxpayer's age, health, etc.
2	Put a check mark next to the applicable phrase(s) and provide a brief explanation in the space available, if necessary.
3	Identify the indications of fraud, the evidence that supports the fraud indicators and the method used to compute omitted income (if applicable) in a clear and concise manner.
4a	Identify the tax year, month that the year ends and the Master File Transcript (MFT) code, for example, 199412/30.
4b	Use tax returns, amended tax returns, RTVUE's, etc.
4c, d, e	Self-explanatory.
4f and g	Revenue Officers: Complete item 4f and/or 4g. Examiners: Complete item 4f only.
5	Name the Examiner or Revenue Officer that developed the issue(s).
6	Self-explanatory.
7	To be completed by the Fraud Referral Specialist.

Attachment 3: Form 2797, Referral Report of Potential Criminal Fraud Cases

Referral Report of Potential Criminal Fraud Cases					FTA Management Control Number						
					<table border="1" style="width:100%; height: 20px; border-collapse: collapse;"> <tr> <td style="width: 15%;"></td> </tr> </table>						
1a. Name and Address of Taxpayer/Filer					1c. Personal Data						
(Last Name)		(First Name)		(MI)	Age: _____						
(Number)		(Street)			Health: _____						
(City or Town)		(State)		(ZIP)	Education: _____						
1b. TIN (SSN or EIN including dashes): _____					Occupation: _____						
1d. Multiple Taxpayers/Filers (if additional fields are needed, continue on page 3) Go to cont. Page					FOR CRIMINAL INVESTIGATION USE ONLY						
Taxpayer/Filer	TIN	Type of Return/Form	Type of Tax	CI Classification		Continue Civil/Collection Activity					
				PI <input type="checkbox"/>	SCI <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>				
				PI <input type="checkbox"/>	SCI <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>				
				PI <input type="checkbox"/>	SCI <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>				
				PI <input type="checkbox"/>	SCI <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>				
				PI <input type="checkbox"/>	SCI <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>				

2. Basis for the suspected fraud?

a. Omitted Income c. Failure to File or Pay Tax e. Altered Documents

b. False Expenses/Deductions d. Evasion of Payment f. Other (Explain) _____

3a. Describe the affirmative acts that support indications of fraud and the intent to defraud. (if additional lines are needed, attach Word document)

3b. Summarize defenses given by the Taxpayer/Filer, Representative, or Preparer for acts of fraud. (if additional lines are needed, add to item 3a attachment)

3c. Describe summonses served (Taxpayer and third party) and/or enforced collection measures taken against the Taxpayer's/Filer's assets

3d. List all investigative information sources checked (e.g., IDRS, CBRS, Credit Bureau, Choice Point, Public Records, DMV, etc.)

4. Tax Return Information:

a. What is the earliest statute expiration date? ASED CSED Date (mmddyyyy) MFT Tax Period

(if additional fields are needed for b-i, continue on page 3) Go to cont. Page

b. Tax Period (yyyymm)	c. Tax Return Form	d. Type of Tax	e. Taxable Income (TI) per Return	f. TI Adjustments due to Fraud	g. Corrected TI	h. Corrected Tax	i. Tax due to Fraud

Attachment 3: Form 2797, Referral Report of Potential Criminal Fraud Cases, Continued

Instructions For Referral Report Of Potential Criminal Fraud Cases (Form 2797)

Initiator must complete items 1 through 10. BSA/FBAR referrals will omit items 4, 8 & 9. FTA Management Control Number: Required entry. The FTA manager will enter the 8 digit number after review and approval and prior to submission to CI.

Item 1: If the fraudulent scheme involves more than one taxpayer/filer, enter information for the most culpable taxpayer/filer.

Item 1a: Enter the last known address.

Item 1b: Enter the SSN or EIN (including dashes) of the taxpayer/filer mentioned in item 1a.

Item 1c: Required entry for individuals only. Provide an estimate if unknown.

Item 1d: Identify the Name, TIN, Type of Return & Type of Tax for all taxpayers that are involved in a fraudulent scheme, including the taxpayer identified in 1a. through 1c. BSA/FBAR referrals will identify the Name and TIN for all filers only. CI will complete remaining portion.

Item 2: Check the appropriate boxes and provide a brief explanation if box "f" is checked.

Item 3a: Be specific and to the point. Indicate the facts that support the indications of fraud and the intent to defraud. If additional lines are needed, attach Word document. Identify taxpayer, TIN and tax period at top of attachment.

Item 3b: Summarize the explanations given by the taxpayer/filer and/or other parties indicated. Where possible, use their exact words.

Item 3c: Identify in a clear and concise manner.

Item 3d: List research.

Items 4a through 4i:

* Use the tax returns and your tax computation worksheet. No explanation is required. The tax computation should not include technical/statutory adjustments. SE tax should be included only if SE tax was reported on a filed tax return.

* If the basis for suspected fraud is aiding and abetting, omit items 4c through 4h. The tax due to fraud can be estimated.

* If the basis for suspected fraud is evasion of payment, omit items 4e through 4h. Enter the total amount of the unpaid balance of assessment in item 4i.

Item 5: Briefly explain why other years are not being referred.

Item 6: Place an "X" in the appropriate box and identify the name and title, if someone other than the taxpayer/filer or spouse. Briefly describe the type of records maintained.

Item 7: Briefly explain how you computed the proposed adjustment(s). What was the basis/method used?

Item 8: Check the "Yes" or "No" box and enter the aggregate annual amount(s) per year.

Item 9: Enter the appropriate information in 9a through 9e. Check "Yes" if the six year statute is applicable; otherwise, check "No" in item 9f.

Item 10: Enter your name, identifying information and 2-digit operating division code to identify the source of the referral.

SB/SE	LMSB	TEGE	Campus	BSA
RA 11	Financial Services 21	Employee Plans 31	W&I 41	SB/SE 51
TCO 12	Communications, Technology & Media 22	Exempt Organizations 32	SB/SE 42	LMSB 52
RO 13	Heavy Manufacturing & Transportation 23	Tax Exempt Bonds 33		TEGE 53
	Natural Resources & Construction 24	Indian Tribal Government 34		
	Retailers, Food, Pharm. & Healthcare 25	Federal, State & Local Govt. 35		

Items 11a through 11d: Insertion of their printed name by the group manager, Fraud Coordinator (*if applicable*), Fraud Technical Advisor and FTA manager acknowledges concurrence with the referral.

C.I. personnel must complete items 12 through 14 and, if applicable, section 1d. Referrals without an FTA Management Control Number will be returned to the FTA manager.

Item 12a: Enter the appropriate date.

Item 12b: The date entered should be within two workdays of the date entered in item 12a.

Item 12c: This date should be established within ten workdays of the date entered in item 12b.

Item 12d: This date should be within 30 workdays of the date entered in 12b.

Item 13a: A decision should be made within 30 workdays of the date entered in item 12b.

Item 13b: A complete explanation (*reasons*) for the declination of the referral, in the form of an attached statement, is mandatory.

Item 14a & 14b: Completed if the referral is being accepted for investigation.

Item 14c: Required entry. Name of the Special Agent in Charge (SAC) if the referral is being declined before investigation, or Supervisory Special Agent (SSA) if the referral is being accepted.

Item 14d: Required entry.

Attachment 3: Form 2797, Referral Report of Potential Criminal Fraud Cases, Continued

**Instructions
for Referral
Report of
Potential
Criminal
Fraud Cases
(Form 2797)**

Compliance personnel must complete items 1 through 11. If the space provided in items 3, 5 6 and 7 is insufficient, a one-page continuation sheet may be attached. If the referral involves one or more tax periods, use additional Forms 2792 (page one). Complete items 1a, 1b and 4b through 4h only. No other attachments are required. IRM 25.1.

Item	Action
1	Identify the taxpayer based on available information; enter the last known address and provide an estimate of the taxpayer's age, health, and education, if unknown.
2	Check the appropriate box(es) and provide a brief explanation if box "F" is checked.
3a	Be specific and to the point. Indicate the facts that support the indications of fraud and the intent to defraud.
3b	Summarize the explanations given by the taxpayer and/or other parties indicated. Where possible, use their exact words.
3c	Identify in a clear and concise manner.
3d	Self-explanatory.
4a through 4g	Use the tax returns and your tax computation worksheet. No explanation is required.
4h	The tax computation should not include technical/statutory adjustments. Self-employment tax should be included in the computation if self-employment tax was reported on a filed tax return. For evasion of payment cases, enter the total amount of the unpaid balance of assessment.
5	Briefly state your opinion why other years are not being referred.

Continued on next page

Attachment 3 : Form 2797, Referral Report of Potential Criminal Fraud Cases, Continued

Instructions for Referral Report of Potential Criminal Fraud Cases (Form 2797) (continued)

Item	Action
6	Place an X in the appropriate box and identify the name and title, if someone other than the taxpayer or spouse. Briefly describe the type of records maintained.
7	Briefly explain how you computed the proposed adjustment(s). What was the basis/method used?
8	Enter the amount (if any) in the spaces provided.
9	Enter the appropriate codes/score in 9a through 9g. Enter "Y" if the six year statute is applicable; otherwise enter "N" in item 9h.
10	The initiator is the examiner/officer.
11a through 11c	The signature acknowledges concurrence with the referral.

CI personnel must complete items 12 through 14. Use only the spaces provided. There will be ample opportunity to ask questions and examine workpapers at the initial conference.

Item	Action
12a	Self-explanatory.
12b	The date entered should be within two workdays of the date entered in item 12a.
12c	This date should be established within 10 workdays of the date entered in item 12b.
12d	This date should be within 30 workdays of the date entered in 12b.

Continued on next page

Attachment 3: Form 2797, Referral Report of Potential Criminal Fraud Cases, Continued

**Instructions
for Referral
Report of
Potential
Criminal
Fraud Cases
(Form 2797)
(continued)**

Item	Action
13a	A decision must be made within 30 workdays of the date entered in item 12b.
13b	A complete explanation (reasons) for the decision of the referral, in the form of an attached statement, is mandatory.
14a and 14b	Completed if the referral is being accepted for investigation.
14c	Required entry. Signature of the Supervisory Special Agent (SSA), if the referral is being accepted. Signature of the Lead Development Center Manager (LDM) or the Special Agent in Charge (SAC), if the referral is being declined before investigation.



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Criminal Investigation

January 13, 2016

Client Name
Client Address
City, State Zip

Dear Mr. CLIENT:

This letter is being provided to inform you that I have expanded the scope of my criminal investigation to include additional targets. I am advising you at this time that additional targets include, but may not be limited to, the following: (1) you, (2) CLIENT ENTITY 1 LLC (a Nevada corporation for which you are the President), and (3) CLIENT ENTITY 2, LLC (a Nevada corporation for which you were once a manager).

This letter is also being provided to advise you that as part of the criminal investigation, I will be making contacts with witnesses and issuing summonses to third parties that may or may not require notice to be sent to you.

Pursuant to Form 2848 Power of Attorney previously provided to me by [REDACTED] [REDACTED] on April 9, 2014, I am also sending a copy of this letter to her. I will also direct copies of any summonses requiring notice to [REDACTED]

Be advised that under the 5th Amendment to the Constitution of the U.S., you have certain rights protecting you from being compelled to provide testimony or information that may incriminate you. If you have any questions, please direct them through your attorney, to me at [REDACTED]

Sincerely,

name of
Special Agent



U.S. Department of Justice

Tax Division

*Northern Criminal Enforcement Section
P.O. Box 972
Washington, D.C. 20044
202-514-5150 (v)
202-616-1786 (f)*

February 13, 2017

VIA HAND DELIVERY
TAX PREPARER

Street
CITY, STATE ZIP

Dear Mr. Preparer:

We write to inform you that you are the target of a grand jury investigation in the Eastern District of New York. The Department of Justice possesses evidence that you may have committed numerous violations the tax laws including but not limited to corruptly endeavoring to obstruct or impede the due administration of the Internal Revenue Code, in violation of 26 U.S.C. § 7212(a); aiding and assisting in the preparation of fraudulent tax returns, in violation of 26 U.S.C. § 7206(2); and aggravated identity theft, in violation of 18 U.S.C. § 1028A.

By this letter, we seek to afford you the opportunity to contact this Office to discuss the possibility of a pre-indictment resolution before formal criminal charges are initiated against you. If you wish to discuss this matter with this Office, please contact us no later than February 28, 2017. Should you decide to meet with the Office, please be advised that you have the right to have an attorney present. If you cannot afford a lawyer, and need appointed counsel, please contact the Federal Public Defender's Office at (718) 330-1200.

In the event we do not hear a response in regards to this letter by February 28, 2017, at 5:00p EST, we shall conclude that you do not wish to discuss this matter with our Office. Consequently, we will present evidence to a federal grand jury which may result in your being named as a defendant in an indictment.



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

CRIMINAL INVESTIGATION

June 12, 2015

CLIENT NAME
CLIENT ADDRESS
CITY, STATE ZIP

CERTIFIED MAIL
Return Receipt Requested

Dear Mr. CLIENT :

You are no longer the subject of a criminal investigation by our office regarding your federal tax liabilities for the year(s) 2007 through 2011. However, this does not preclude re-entry by Criminal Investigation into this investigation.

The matter is presently in the appropriate Civil Operating Division for further consideration.

If you have any questions, please contact Supervisory Special Agent _____ at (718) XXX-XXXX.

Sincerely,

NAME
Special Agent in
Charge New York Field
Office 290 Broadway, 4th
Floor New York, NY
10007

cc: Eric L. Green
Attorney



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Criminal Investigation

January 13, 2017

Client Name
Client Address
City, State Zip

Dear Mr. CLIENT:

A report recommending you be prosecuted for filing a false tax return and preparing false tax returns for the years 2011 through 2012 and in violation of Title 18, United States Code, Sections 286 and 287, was forwarded to Department of Justice, Tax Division on this date.

Department of Justice, Tax Division will review this matter and make the final determination as to the disposition of this prosecution recommendation.

Any further inquiry concerning your investigation should be made to:

The Honorable Caroline D. Ciralo
Assistant Attorney General for the Tax Division
United States Department of Justice
601 D Street, NW Room 7334
Washington, DC 20004

ATTN: Larry J Wszalek, Chief
Western Enforcement Section

Sincerely,

Tara Sullivan
Special Agent in Charge
Las Vegas Field Office
Criminal Investigation

Enclosure
cc: Eric L. Green
Green & Sklarz LLC
700 State St., Ste. 100
New Haven, CT 06511



Eric L. Green
Phone: (203) 285-8545 x102
Direct Dial: (203) 361-3139
Fax: (203) 286-1311
egreen@gs-lawfirm.com

700 State Street, Ste 100
New Haven, CT 06511

243 Tresser Blvd, 17th Fl
Stamford, CT 06901

Via Fedex

Larry J. Wszalek
Chief, Western Division
Department of Justice/Tax Division
601 D Street, NW, Room 7334
Washington, DC 20004

Re: CLIENT

Dear Mr. Wszalek:

This office represents CLIENT, SSN XXX-XX-XXXX. Our Power of Attorney (Form 2848) is enclosed. We have been advised by the Internal Revenue Service, Criminal Investigation Division, that it has recommended prosecution for tax offenses under Title 26 of the United States Code.

I am writing on behalf to request a conference with the Tax Division prior to any final determination by the Tax Division with respect to prosecution. Please contact me at your convenience to schedule this conference.

Thank you for your time and consideration.

Very truly yours,

Eric L. Green

Enclosure

C. CLIENT
L. Perkins, Esq.

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA :
 :
 : Crim. Case No. 3:15CR ____
 v. :
 : 26 U.S.C. Section 7206(2) (false
 : return)
 TAX PREPARER :

INFORMATION

The United States Attorney charges:

Background

1. During all times relevant to this Information, the defendant TAX PREPARER, a resident of CITY, Connecticut, prepared tax returns for individuals in his community. During the relevant period, TAX PREPARER prepared at least 282 returns for the 2012 tax year; 873 returns for the 2013 tax year; 1124 returns for the 2014 tax year; and 1068 returns for the 2015 tax year.

2. At least beginning in or about 2013 (relating to the 2012 tax returns) and continuing until at least 2016 (relating to the 2015 tax returns), TAX PREPARER falsified information on a number of returns that he prepared as part of this tax preparation practice, including falsifying information on Schedule C forms by fabricating the existence of businesses or on Schedule A forms by markedly overstating deductible medical expenses.

3. In addition, TAX PREPARER made substantial deposits to his personal bank accounts representing fees for his tax preparation services, including revenue totaling approximately \$130,850 in 2013 for the preparation of the 2012 tax returns; \$119,829 in 2014 for the preparation of the 2013 tax returns; and \$149,871 in 2015 for the preparation of the 2014 tax returns. For the

tax years 2013 through 2015, TAX PREPARER did not accurately report his income from his tax preparation business on his own personal income tax returns, instead indicating that he had no income from his tax preparation business in 2013 and \$18,500 for tax year 2014, when he had earned much more. TAX PREPARER did not file a tax return for the tax year 2015, despite earning significant income.

COUNTS ONE

26 U.S.C. ' 7206(2) (False Return)

4. Paragraphs 1-3 of this Information are incorporated by reference as if fully restated herein.

5. On or about April 14, 2015, in the District of Connecticut, as an example of one the fraudulently prepared returns, TAX PREPARER did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service of a U.S. Individual Tax Return (Form 1040 and related attached forms) (hereinafter, "Tax Return") for the calendar year 2014 for the client with the initials "XX." The relevant Tax Return was false and fraudulent as to a material matter, which TAX PREPARER then and there knew, in that the Tax Return materially falsified unreimbursed employee business expenses, out of pocket medical and dental expenses, and self-employed business loss, by materially exaggerating the expenses and losses.

All in violation of Title 26, United States Code, Section 7206(2).

UNITED STATES OF AMERICA

NAME
UNITED STATES ATTORNEY

NAME
ASSISTANT UNITED STATES ATTORNEY



U.S. Department of Justice

*United States Attorney
District of Connecticut*

*Connecticut Financial Center
157 Church Street, 25th Floor
New Haven, Connecticut 06510*

*(203) 821-3700
Fax (203) 773-5376
www.justice.gov/usao/ct*

September __, 2017

Eric L. Green, Esq.
Green & Sklarz LLC
New Haven, CT 06511

Re: United States v. TAX PREPARER
Case No.

Dear Attorney Green:

This letter confirms the plea agreement between your client, TAX PREPARER (the “defendant”), and the United States Attorney’s Office for the District of Connecticut (the “Government”) concerning the referenced criminal matter.

THE PLEA AND OFFENSE

TAX PREPARER agrees to waive his right to be indicted and to plead guilty to a one-count information charging him with aiding and assisting the filing of a false tax return in violation of 26 U.S.C. § 7206(2)

The defendant understands that, to be guilty of this offense, the following essential elements of the offense must be satisfied:

1. The defendant aided or assisted in, procured, counseled or advised the preparation or presentation of the relevant tax return at issue, namely, a document in connection with a matter arising under the internal revenue laws;
2. The tax return was false as to a material matter;
3. The act of the defendant was willful with the specific intent to violate the law.

THE PENALTIES

The charged offense carries a maximum penalty of three years of imprisonment and a \$100,000 fine. In addition, under 18 U.S.C. § 3583, the Court may impose a term of supervised release of not more than one year to begin at the expiration of any term of imprisonment. The

defendant understands that, should he violate any condition of the supervised release, he may be required to serve a further term of imprisonment of up to one year with no credit for time already spent on supervised release.

The defendant is also subject to the alternative fine provision of 18 U.S.C. § 3571. Under this section, the maximum fine that may be imposed on the defendant is the greatest of the following amounts: (1) twice the gross gain to the defendant resulting from the offense; (2) twice the gross loss resulting from the offense; (3) \$250,000; or (4) the amount specified in the section defining the offense, which is \$100,000.

In addition, the defendant is obligated by 18 U.S.C. § 3013 to pay a special assessment of \$100 on the count of conviction. The defendant agrees to pay the special assessment to the Clerk of the Court on the day the guilty plea is accepted.

The defendant is also subject to restitution, as discussed below. Unless otherwise ordered, should the Court impose a fine or restitution of more than \$2,500 as part of the sentence, interest will be charged on the unpaid balance of the fine or restitution not paid within 15 days after the judgment date. 18 U.S.C. § 3612(f). Other penalties and fines may be assessed on the unpaid balance of a fine or restitution pursuant to 18 U.S.C. § 3572 (h), (i) and § 3612(g).

Restitution

In addition to the other penalties provided by law, the Court may also order that the defendant make restitution under 18 U.S.C. § 3663, and the Government reserves its right to seek restitution on behalf of the Internal Revenue Service consistent with the provisions of § 3663, et seq. The parties have agreed that criminal restitution is due from the defendant in the amount of \$406,679. The parties further agree that the defendant will be entitled to a reduction of restitution obtained from third parties as reflected in 18 U.S.C. § 3664. The scope and effect of the order of restitution are set forth in the attached Rider Concerning Restitution. Restitution is payable immediately unless otherwise ordered by the Court.

The defendant further agrees that he will sign the IRS forms deemed necessary by the IRS to enable it to make civil assessment, including agreeing to sign IRS form 8821, "Tax Information Authorization." The defendant further agrees to allow the contents of his IRS criminal file to be given to civil attorneys and support staff of the United States Attorney's Office and the IRS to enable them to investigate any taxes owed by the defendant, including, but not limited to, any civil penalties and interest. With respect to disclosure of the criminal file to the above-listed individuals and entities, the defendant waives any rights the defendant might hold under 26 U.S.C. §§ 6103, 7213, and Fed. R. Crim. P. 6(e). The defendant further waives any other rights he might have to non-disclosure of tax-related information. The defendant agrees as a special condition of probation or supervised release that he will cooperate with the IRS to pay all outstanding taxes, interest, and penalties.

If the Court orders the defendant to pay restitution to the IRS, either directly as part of the sentence or as a condition of probation or supervised release, the IRS may use the restitution order as the basis for a civil assessment. 26 U.S.C. § 6201(a)(4). The defendant does not have

the right to challenge the amount of this assessment. 26 U.S.C. § 6201(a)(4)(C). Neither the existence of a restitution payment schedule nor the defendant's timely payment of restitution according to that schedule will preclude the IRS from administrative collection of the restitution-based assessment, including levy and distraint under 26 U.S.C. § 6331.

THE SENTENCING GUIDELINES

Applicability

The defendant understands that the Court is required to consider any applicable Sentencing Guidelines as well as other factors enumerated in 18 U.S.C. § 3553(a) to tailor an appropriate sentence in this case and is not bound by this plea agreement. The defendant agrees that the Sentencing Guideline determinations will be made by the Court, by a preponderance of the evidence, based upon input from the defendant, the Government, and the United States Probation Office. The defendant further understands that he has no right to withdraw his guilty plea if his sentence or the Guideline application is other than he anticipated, including if the sentence is outside any of the ranges set forth in this agreement.

Acceptance of Responsibility

At this time, the Government agrees to recommend that the Court reduce by two levels the defendant's adjusted offense level under § 3E1.1(a) of the Sentencing Guidelines, based on the defendant's prompt recognition and affirmative acceptance of personal responsibility for the offense. Moreover, should the defendant qualify for a decrease under § 3E1.1(a) and his offense level determined prior to the operation of subsection (a) is level 16 or greater, the Government will file a motion with the Court pursuant to § 3E1.1(b) which recommends that the Court reduce the defendant's Adjusted Offense Level by one additional level based on his prompt notification of his intention to enter a plea of guilty. The defendant understands that the Court is not obligated to accept the Government's recommendations on the reductions.

The above-listed recommendations are conditioned upon the defendant's affirmative demonstration of acceptance of responsibility, by (1) truthfully admitting the conduct comprising the offense(s) of conviction and truthfully admitting or not falsely denying any additional relevant conduct for which the defendant is accountable under § 1B1.3 of the Sentencing Guidelines, and (2) truthfully disclosing to the United States Attorney's Office and the United States Probation Office personal information requested, including the submission of a complete and truthful financial statement detailing the defendant's financial condition.

In addition, the Government expressly reserves the right to seek denial of the adjustment for acceptance of responsibility if the defendant engages in any acts, unknown to the Government at the time of the signing of this agreement, which (1) indicate that the defendant has not terminated or withdrawn from criminal conduct or associations (§ 3E1.1 of the Sentencing Guidelines); (2) could provide a basis for an adjustment for obstructing or impeding the administration of justice (§ 3C1.1 of the Sentencing Guidelines); or (3) constitute a violation of any condition of release. Moreover, the Government reserves the right to seek denial of the adjustment for acceptance of responsibility if the defendant seeks to withdraw his guilty plea or

takes a position at sentencing, or otherwise, which, in the Government's assessment, is inconsistent with affirmative acceptance of personal responsibility. The defendant understands that he may not withdraw his plea of guilty if, for the reasons explained above, the Government does not make one or both of the recommendations or seeks denial of the adjustment for acceptance of responsibility.

Stipulation

Pursuant to § 6B1.4 of the Sentencing Guidelines, the defendant and the Government have entered into the attached stipulation, which is a part of this plea agreement. The defendant understands that this stipulation does not set forth all of the relevant conduct and characteristics that may be considered by the Court for purposes of sentencing. The defendant understands that this stipulation is not binding on the Court. The defendant also understands that the Government and the United States Probation Office are obligated to advise the Court of any additional relevant facts that subsequently come to their attention.

Guideline Stipulation

The parties agree as follows:

The Guidelines Manual in effect on the date of sentencing is used to determine the applicable Guidelines range.

The defendant's base offense level under U.S.S.G. § 2T1.4 and 2T4.1 is 18, corresponding with a Guidelines criminal tax loss of approximately \$406,679, which falls in the loss range between \$250,000 and \$550,000. Two levels are added under U.S.S.G. Section 2T1.4 as the defendant was engaged in the business of preparing or assisting in the preparation of tax returns. (The defendant also derived a substantial portion of his income for the period at issue from the scheme.) The parties agree that three levels are subtracted under U.S.S.G. § 3E1.1 for acceptance of responsibility, as noted above, resulting in a total offense level of 17.

Based on an initial assessment, the parties agree that the defendant falls within Criminal History Category I. The parties reserve the right to recalculate the defendant's Criminal History Category and corresponding sentencing ranges if this initial assessment proves inaccurate.

A total offense level of 17, assuming a Criminal History Category I, would result in a Guidelines sentencing range of 24 to 30 months of imprisonment (sentencing table) and a fine range of \$10,000 to \$95,000. U.S.S.G. § 5E1.2(h). The defendant is also subject to a supervised release term of one year. U.S.S.G. § 5D1.2.

The Government and the defendant reserve their rights to seek a departure or a non-Guidelines sentence. Unless otherwise stated, both sides reserve their right to object to a departure or a non-Guidelines sentence.

If TAX PREPARER decides to provide assistance, I'll add the following language:

Notwithstanding the above, the defendant will seek at sentencing a variance from the relevant Guidelines range for the defendant's efforts to assist the Government in identifying additional fraudulent tax returns either prepared by the defendant or of which the defendant is otherwise aware. The defendant will outline to the sentencing court the defendant's efforts and the Government will assess its position at sentencing, at which point the Court may, in its sole discretion, grant the variance and determine the nature and extent of any such variance.

The defendant expressly understands that the Court is not bound by this agreement on the Guideline ranges specified above. The defendant further understands that he will not be permitted to withdraw the plea of guilty if the Court imposes a sentence outside any of the ranges set forth in this agreement.

In the event the Probation Office or the Court contemplates any sentencing calculations different from those stipulated by the parties, the parties reserve the right to respond to any inquiries and make appropriate legal arguments regarding the proposed alternate calculations. Moreover, the parties expressly reserve the right to defend any sentencing determination, even if it differs from that stipulated by the parties, in any post-sentencing proceeding.

Waiver of Right to Appeal or Collaterally Attack Conviction and Sentence

The defendant acknowledges that under certain circumstances he is entitled to challenge his conviction and sentence. The defendant agrees not to appeal or collaterally attack his conviction in any proceeding, including but not limited to a motion under 28 U.S.C. § 2255 and/or § 2241. Nor will he pursue such an appeal or collateral attack to challenge the sentence imposed by the Court if that sentence does not exceed 30 months of imprisonment, a 1 year term of supervised release, a \$100 special assessment, a fine of \$95,000 and agreed-upon restitution even if the Court imposes such a sentence based on an analysis different from that specified above. The Government and the defendant agree that this waiver applies regardless of whether the term of imprisonment is imposed to run consecutively to or concurrently with, in whole or in part, the undischarged portion of any other sentence that has been imposed on the defendant at the time of sentencing in this case. The defendant acknowledges that he is knowingly and intelligently waiving these rights. Furthermore, the parties agree that any challenge to the defendant's sentence that is not foreclosed by this provision will be limited to that portion of the sentence that is inconsistent with (or not addressed by) this waiver. Nothing in the foregoing waiver of appellate and collateral review rights shall preclude the defendant from raising a claim of ineffective assistance of counsel in an appropriate forum.

Information to the Court

The Government reserves its right to address the Court with respect to an appropriate sentence to be imposed in this case. Moreover, the Government will discuss the facts of this case, including information regarding the defendant's background and character, 18 U.S.C. § 3661, with the United States Probation Office and will provide the Probation Officer with access to material in its file, with the exception of grand jury material.

WAIVER OF RIGHTS

Waiver of Right to Indictment

The defendant understands that he has the right to have the facts of this case presented to a federal grand jury, consisting of between sixteen and twenty-three citizens, twelve of whom would have to find probable cause to believe that he committed the offense set forth in the information before an indictment could be returned. The defendant acknowledges that he is knowingly and intelligently waiving his right to be indicted.

Waiver of Trial Rights and Consequences of Guilty Plea

The defendant understands that he has the right to be represented by an attorney at every stage of the proceeding and, if necessary, one will be appointed to represent him.

The defendant understands that he has the right to plead not guilty or to persist in that plea if it has already been made, the right to a public trial, the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine the witnesses against him, the right not to be compelled to incriminate himself, the right to testify and present evidence, and the right to compel the attendance of witnesses to testify in his defense. The defendant understands that by pleading guilty he waives those rights and that, if the plea of guilty is accepted by the Court, there will not be a further trial of any kind.

The defendant understands that, if he pleads guilty, the Court may ask him questions about each offense to which he pleads guilty, and if he answers those questions falsely under oath, on the record, and in the presence of counsel, his answers may later be used against him in a prosecution for perjury or making false statements.

Waiver of Statute of Limitations

The defendant agrees that, should the conviction following defendant's guilty plea be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this plea agreement (including any indictment or counts the Government has agreed to dismiss at sentencing pursuant to this plea agreement) may be commenced or reinstated against the defendant, notwithstanding the expiration of the statute of limitations between the signing of this plea agreement and the commencement or reinstatement of such prosecution. The defendant agrees to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date the plea agreement is signed.

ACKNOWLEDGMENT OF GUILT AND VOLUNTARINESS OF PLEA

The defendant acknowledges that he is entering into this agreement and is pleading guilty freely and voluntarily because he is guilty. The defendant further acknowledges that he is entering into this agreement without reliance upon any discussions between the Government and him (other than those described in the plea agreement letter), without promise of benefit of any

kind (other than the concessions contained in the plea agreement letter), and without threats, force, intimidation, or coercion of any kind. The defendant further acknowledges his understanding of the nature of the offense to which he is pleading guilty, including the penalties provided by law. The defendant also acknowledges his complete satisfaction with the representation and advice received from his undersigned attorney. The defendant and his undersigned counsel are unaware of any conflict of interest concerning counsel's representation of the defendant in the case.

SCOPE OF THE AGREEMENT

The defendant acknowledges that this agreement is limited to the undersigned parties and cannot bind any other federal authority, or any state or local authority. The defendant acknowledges that no representations have been made to him with respect to any civil or administrative consequences that may result from this plea of guilty because such matters are solely within the province and discretion of the specific administrative or governmental entity involved. Finally, the defendant acknowledges that this agreement has been reached without regard to any civil tax matters that may be pending or which may arise involving him.

COLLATERAL CONSEQUENCES

The defendant understands that he will be adjudicated guilty of each offense to which he has pleaded guilty and will be deprived of certain rights, such as the right to hold public office, to serve on a jury, to possess firearms and ammunition, and in some states, the right to vote. Further, the defendant understands that if he is not a citizen of the United States, a plea of guilty may result in removal from the United States, denial of citizenship, and denial of admission to the United States in the future. The defendant understands that pursuant to section 203(b) of the Justice for All Act, the Federal Bureau of Prisons or the United States Probation Office will collect a DNA sample from the defendant for analysis and indexing. Finally, the defendant understands that the Government reserves the right to notify any state or federal agency by which he is licensed, or with which he does business, as well as any current or future employer of the fact of his conviction.

SATISFACTION OF FEDERAL CRIMINAL LIABILITY; BREACH

The defendant's guilty plea, if accepted by the Court, will satisfy the federal criminal liability of the defendant in the District of Connecticut as a result of his participation in the conduct that forms the basis of the Information in this case.

The defendant understands that if, before sentencing, he violates any term or condition of this agreement, engages in any criminal activity, or fails to appear for sentencing, the Government may void all or part of this agreement. If the agreement is voided in whole or in part, defendant will not be permitted to withdraw his guilty plea.

NO OTHER PROMISES

Eric L. Green, *Esq.*

Page 8

The defendant acknowledges that no other promises, agreements, or conditions have been entered into other than those set forth in this plea agreement, and none will be entered into unless set forth in writing, signed by all the parties.

This letter shall be presented to the Court, in open court, and filed in this case.

Very truly yours,

DEIRDRE M. DALY
UNITED STATES ATTORNEY

CHRISTOPHER W. SCHMEISSER
ASSISTANT UNITED STATES ATTORNEY

The defendant certifies that he has read this plea agreement letter and its attachment(s) or has had it read or translated to him, that he has had ample time to discuss this agreement and its attachment(s) with counsel and that he fully understands and accepts its terms.

TAX PREPARER
The Defendant

Date

I have thoroughly read, reviewed and explained this plea agreement and its attachment(s) to my client who advises me that he understands and accepts its terms.

ERIC L. GREEN, ESQ.
Attorney for the Defendant

Date

STIPULATION OF OFFENSE CONDUCT AND RELEVANT CONDUCT

The defendant and the Government stipulate to the following offense conduct and relevant conduct that gives rise to the defendant's agreement to plead guilty to the Information:

[Track language of the Information.]

The parties agree that the Guidelines tax loss is \$406,679, as reflected in Attachment A to the plea agreement.

This written stipulation is part of the plea agreement. The defendant and the Government reserve their right to present additional relevant offense conduct to the Court in connection with sentencing.

TAX PREPARER
The Defendant

CHRISTOPHER W. SCHMEISSER
ASSISTANT UNITED STATES ATTORNEY

ERIC L. GREEN, ESQ.
Attorney for the Defendant

RIDER CONCERNING RESTITUTION

The Court may order that the defendant make restitution under 18 U.S.C. § 3663 as follows:

1. If the offense resulted in damage to or loss or destruction of property of a victim of the offense:
 - A. Return the property to the owner of the property or someone designated by the owner; or
 - B. If return of the property is impossible, impracticable, or inadequate, pay an amount equal to:

The greater of -

 - (I) the value of the property on the date of the damage, loss, or destruction; or
 - (II) the value of the property on the date of sentencing, less the value as of the date the property is returned.
2. In the case of an offense resulting in bodily injury to a victim –
 - A. Pay an amount equal to the costs of necessary medical and related professional services and devices related to physical, psychiatric, and psychological care; including non-medical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;
 - B. Pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and
 - C. Reimburse the victim for income lost by such victim as a result of such offense;
3. In the case of an offense resulting in bodily injury that results in the death of the victim, pay an amount equal to the cost of necessary funeral and related services; and
4. In any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.

The order of restitution has the effect of a civil judgment against the defendant. In addition to the Court-ordered restitution, the Court may order that the conditions of its order of restitution be made a condition of probation or supervised release. Failure to make restitution as ordered may result in a revocation of probation, or a modification of the conditions of supervised release, or in the defendant being held in contempt under 18 U.S.C. § 3583(e). Failure to pay restitution may also result in the defendant's re-sentencing to any sentence which might originally have been imposed by the Court. *See* 18 U.S.C. §§ 3614, 3613A. The Court may also order that the defendant give notice to any victim(s) of his offense under 18 U.S.C. § 3555.

§2T4.1. Tax Table

	<u>Tax Loss</u> (Apply the Greatest)	<u>Offense Level</u>
(A)	\$2,500 or less	6
(B)	More than \$2,500	8
(C)	More than \$6,500	10
(D)	More than \$15,000	12
(E)	More than \$40,000	14
(F)	More than \$100,000	16
(G)	More than \$250,000	18
(H)	More than \$550,000	20
(I)	More than \$1,500,000	22
(J)	More than \$3,500,000	24
(K)	More than \$9,500,000	26
(L)	More than \$25,000,000	28
(M)	More than \$65,000,000	30
(N)	More than \$150,000,000	32
(O)	More than \$250,000,000	34
(P)	More than \$550,000,000	36.

SENTENCING TABLE
(in months of imprisonment)

	Offense Level	Criminal History Category (Criminal History Points)					
		I (0 or 1)	II (2 or 3)	III (4, 5, 6)	IV (7, 8, 9)	V (10, 11, 12)	VI (13 or more)
Zone A	1	0-6	0-6	0-6	0-6	0-6	0-6
	2	0-6	0-6	0-6	0-6	0-6	1-7
	3	0-6	0-6	0-6	0-6	2-8	3-9
	4	0-6	0-6	0-6	2-8	4-10	6-12
	5	0-6	0-6	1-7	4-10	6-12	9-15
	6	0-6	1-7	2-8	6-12	9-15	12-18
	7	0-6	2-8	4-10	8-14	12-18	15-21
	8	0-6	4-10	6-12	10-16	15-21	18-24
Zone B	9	4-10	6-12	8-14	12-18	18-24	21-27
	10	6-12	8-14	10-16	15-21	21-27	24-30
	11	8-14	10-16	12-18	18-24	24-30	27-33
Zone C	12	10-16	12-18	15-21	21-27	27-33	30-37
	13	12-18	15-21	18-24	24-30	30-37	33-41
Zone D	14	15-21	18-24	21-27	27-33	33-41	37-46
	15	18-24	21-27	24-30	30-37	37-46	41-51
	16	21-27	24-30	27-33	33-41	41-51	46-57
	17	24-30	27-33	30-37	37-46	46-57	51-63
	18	27-33	30-37	33-41	41-51	51-63	57-71
	19	30-37	33-41	37-46	46-57	57-71	63-78
	20	33-41	37-46	41-51	51-63	63-78	70-87
	21	37-46	41-51	46-57	57-71	70-87	77-96
	22	41-51	46-57	51-63	63-78	77-96	84-105
	23	46-57	51-63	57-71	70-87	84-105	92-115
	24	51-63	57-71	63-78	77-96	92-115	100-125
	25	57-71	63-78	70-87	84-105	100-125	110-137
	26	63-78	70-87	78-97	92-115	110-137	120-150
	27	70-87	78-97	87-108	100-125	120-150	130-162
	28	78-97	87-108	97-121	110-137	130-162	140-175
	29	87-108	97-121	108-135	121-151	140-175	151-188
	30	97-121	108-135	121-151	135-168	151-188	168-210
	31	108-135	121-151	135-168	151-188	168-210	188-235
	32	121-151	135-168	151-188	168-210	188-235	210-262
	33	135-168	151-188	168-210	188-235	210-262	235-293
	34	151-188	168-210	188-235	210-262	235-293	262-327
	35	168-210	188-235	210-262	235-293	262-327	292-365
	36	188-235	210-262	235-293	262-327	292-365	324-405
	37	210-262	235-293	262-327	292-365	324-405	360-life
	38	235-293	262-327	292-365	324-405	360-life	360-life
	39	262-327	292-365	324-405	360-life	360-life	360-life
	40	292-365	324-405	360-life	360-life	360-life	360-life
	41	324-405	360-life	360-life	360-life	360-life	360-life
	42	360-life	360-life	360-life	360-life	360-life	360-life
	43	life	life	life	life	life	life