



November 8, 2010

Defendants in Tax Evasion Case Acquitted

Two defendants indicted in on a tax evasion charge were acquitted by a jury in Beckley, West Virginia after a 7-year IRS investigation. Dr. Randy M. Brodник and Mr. Anthony I. Kritt were charged with 14 counts of an indictment for alleged tax evasion, conspiracy to commit tax evasion and obstruction of justice.

The charges were based on their participation in an offshore employee leasing transaction which the IRS listed as a 'listed transaction' and abusive tax shelter. The offshore employee leasing transaction was included in the list of transactions (called the 'Dirty Dozen') the IRS has devoted itself to contesting.

Dr. Brodnik's attorney, Anthony Gasaway has contended that the IRS had failed to give adequate notice of the illegality of the transaction to taxpayers. Dr. Brodnik was earlier represented by another attorney, Robert Stientjes who stepped down in order to be a witness for the defense.

The jury's verdict in this case is a landmark one that indicates not all offshore transactions are illegal just because they are not conducted in the United States. Offshore transactions that comply with US tax laws and treaties are not to be deemed illegal. Gasaway maintained that there is nothing wrong with maintaining a foreign bank account as long as proper and adequate reporting for tax purposes is being done.

The trial for the duo lasted 4 weeks and the jury was told that the defendants transferred over 6 million dollars into foreign bank accounts, violating federal tax laws. In addition, Kritt was also alleged to have schemed a plan to defraud the US. Similar schemes have been listed as abusive tax shelters in IRS Notice 2003-22. Kritt was represented by attorneys Paul Harris and Joseph Wallace who maintained that their client had properly approved the transaction according to US tax laws.

In addition, the defense successfully convinced the jury that the defendants had paid up all their tax dues pursuant to tax law changes effective in 2007.

In 2003, the IRS raided the homes and offices of both defendants and confiscated about 20,000 documents but only less than 100 were presented in court. During the trial, it was shown that a witness for the prosecution illegally gained access to Dr. Brodnik's email account in order to obtain evidence for the IRS. On the other hand, several former IRS attorneys testified that in their opinion, no tax laws were broken by the defendants.

The jury took just 5 hours to come to their decision to unanimously acquit the defendants.