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I am an attorney who has practiced law for 16 years, the last 7 or so exclusively as defense counsel for individuals accused of tax crimes, primarily by virtue of using offshore trusts and novel business structures to minimize their tax burden.

I must say novel rather tongue in cheek because while many attorneys and taxpayers are not familiar with business trusts, constitutional trusts and asset protection trusts, these schemes have proliferated for decades, as this body well knows.

I represented Dr. Bullock in his criminal case. A man from Bountiful, Utah, named Lonnie Crockett sold Dr. Bullock an "asset management" tax "avoidance" trust package, then falsely claimed he had a law degree and presented attorney recommendation letters and extensive legal authority. He claimed that Dr. Bullock could legitimately distribute income to an offshore trust and deduct that amount from his taxable gross income. He was to "lose control" of the money and in fact he did not control or communicate with the foreign trustees. However, ultimately the funds came back to the U.S. and were not reported as income. This was because Bullock was shown the section of the tax code which allows a legitimate gift from a foreign individual or entity to be received tax free. Unfortunately he wasn't told that he could not receive such a gift under these circumstances, this being a circular transaction. He was convicted of conspiracy to defraud the U.S. by defeating the lawful functions of the IRS and for filing false tax returns. He received an 18 month sentence in federal prison and lost his medical license.

There is a persistent and rather successful anti-tax movement whether it expresses itself as tax patriot or asset protection. Armed with case law and attorney recommendation letters, they present false credentials and flawed conclusions about tax laws. Yet, tax avoidance is big business and making claims of asset protection and lowering the tax bite is a siren song to independent business owners and intelligent professionals, especially physicians.

Why are these promoters so successful, despite the previous convictions and publicity?

First: Perception that wealthy are not only using tax loopholes, they are doing so with impunity. Taxpayers are told that all the wealthy families use blind trusts and offshore trusts to shelter income.

As an attorney, how can I refute this?

This is difficult when Marc Rich is pardoned and a \$45 million tax bill is forgiven. When Citizens for Tax Justice tell us that GE, Ford and AT&T took even greater advantage of tax breaks and offshore trusts than Enron. It is rumored that these companies appear to have set up offshore entities solely to avoid income tax. I'm speaking obviously not of a statement of fact, but of the perception of the public. The taxpayers, middle class self-employed business owners, farmers and professionals are often backed against the wall, fighting to survive and make payroll, pay their commercial rent bills and provide for their families.

The backbone of our country, I would say.

When unfairness is perceived, rebellion seems the only option. Survival, the inviolate law of nature, kicks in. The taxpayer becomes more susceptible to the promoter's claim of the conspiracy of privilege and corruption within the tax system.

Another reason promoters continue to attract new clients is that as Dr. Bullock's case demonstrates, some IRS enforcement activities continue to include agents in flak jackets, refusal

to adhere to mandated administrative procedures and tactics that are not designed to enhance collection efforts but to humiliate, embarrass and harass the taxpayer.

If taxpayers continue to experience what appears to be a corrupt system administered by bureaucrats who never had to make a payroll and who refuse to engage in good faith offers in compromise, there will continue to be no respect for the rule of law.

We can all agree that the right to plan your affairs within the limits of the law is one of the underpinnings of the rule of law, but for that to be respected taxpayers need to clearly know that those limits are and know that those limits are enforced uniformly.

A third reason the peddlers of bogus tax schemes succeed is that lawyers are often uninformed of how the schemes work and are therefore unsuccessful in specifically refuting the positions taken. Without a detailed and complete explanation, the taxpayer aligns with the promoter and believes the claim of their “secret knowledge of the loopholes” and further claims that the unknowing CPA’s and lawyers are brainwashed members of the conspiracy team. The promoters use pieces of truthful statements and string them together in a way that is plausible within this climate. For example, while it is true that a taxpayer could in some circumstances, receive a tax free gift from a foreign entity, the bogus trust scam usually involves cycling the taxpayers own income through foreign trusts which is ultimately money laundering.

Rather than rely so heavily on fear to encourage compliance, the IRS must do a better job of educating the public and making the tax code more comprehensible. I am aware of the bulletins offered to the public which discuss these devices in some detail.

However, taxpayers desperately need a qualified and informed professional to examine and discuss the plan they are contemplating or have used. One suggestion that could be implemented is a group taxpayer ombudsmen somehow connected to the IRS, but operating independently who are qualified CPAs and attorneys who can individually advise the public at a reasonable cost. Naturally, if they are paid by the taxpayer, attorney client privilege applies and the taxpayer can

get confidential and candid advice. So far, there are only a small number of us that could claim a degree of expert status and clients have difficulty finding us.

We should not be making criminals of middle class business owners but concentrating on stopping the promoters. The process of criminal indictment is too slow to stop the promoters who continue under indictment by filing suit against the government and other similar tactics. An injunction against the promoter for violating §6700 of the IRS Code which prohibits promoting abusive tax shelters would stop the promoter on the day of the hearing and save more taxpayers.

Let me emphasize that in no way do I excuse or condone tax cheating and counsel all clients to make truthful and complete disclosure of any past mistakes. We can be effective in this approach if the Service takes the position that amnesty for past violators is a win-win situation. Revenue is captured, and the client may be penalized civilly and financially, but not criminally. For us to make criminals of otherwise responsible, successful members of the middle class seems wasteful and misguided. Resources should concentrate on improved information and education, more competent professional help and a goal of prosecuting promoters.

Resources should be directed to the huge corporations and promoters who cheat our country out of more taxes than thousands of hard working small business owners combined.

Citizens are enraged with corporate giants fed fat on their sacrifices and tax reform can greatly contribute to a restoration of confidence in our government and compliance with the law.

Thank you.