



THE LANDLORD'S EXPANDING IRS "DOMESTIC" SHAKEDOWN! TM©2007

New IRS Exposure on DOMESTIC Tax & Asset Protection - Update!
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Landlord's Expanding IRS Shakedown!

The landlord's circle of liability is expanding. Landlords today are facing ever growing new I.R.S. tax traps and trends. Today we will discuss a few new critical tax changes from our 'DOMESTIC - I.R.S. Traps and Trends'TM report.

I.R.S. Traps & TrendsTM - DOMESTIC Tax & Asset Protection - Update

There is a serious trend afoot that should concern every taxpayer, especially landlords. Laws get dangerous when "factual presumptions" are imputed against the taxpayer or landlord. Recent U.S. Congressional hearings in late 2006 and most recently in February 2007 have set a trend in tax and asset protection law that you should know about. Notably, the hearings were termed: *"Tax Haven Abuses, The Enablers, The Tools and Secrecy Hearing; and the most recent bill termed: "Stop Tax Haven Abuse Act"*.

The "Stop Tax Haven Abuse Act"! A bi-partisan bill called the *"Stop Tax Haven Abuse Act"* was introduced by Senator Carl Levin (D-Mich.), Senator Norm Coleman (R-Minn.) and Senator Barack Obama (D-Ill.) on February 17, 2007 to stop offshore tax haven abuse and domestic and related offshore tax shelter abuses. One of the most powerful and broad changes would be the codification of the "form over substance" or economic substance doctrine(s).

Domestic IRS Traps & TrendsTM

Title IV entitled, "Requiring Economic Substance" Title IV entitled, Requiring Economic Substance, amends IRC 7701 with Section 401 entitled Clarification of Economic Substance Doctrine. It holds that the:

tax benefits are not allowed if the transaction (or series of transactions) does not have “economic substance” or “lacks a business purpose”.

This section will not apply to personal transaction, but will apply to transactions entered into in connection with a trade or business or an activity engaged in for the production of income (such as rental real estate). This section is potentially the most lethal. This will potentially allow ‘subjective’ factual findings as ‘objective’ fact. This is what we call “MEGO,” meaning “MY EYES GLAZE OVER.” This will seek to invalidate complex (tax or asset protection) transactions. **Every transaction is presumed to lack “economic substance” since the law would find a transaction to have “economic substance” ONLY IF – (1) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer’s economic position, and (2) the taxpayer has a substantial NONTAX PURPOSE for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose. If the end benefit is a reduction in income tax by a financial accounting benefit, then the accounting benefit shall not be taken into account to determine the ‘substantial nontax purpose’. Also, a PROFIT POTENTIAL will not save you. A transaction shall not be treated as having economic substance by reason of having a potential for profit UNLESS – (1) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, AND (2) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return. This section also has special rules for FINANCING TRANSACTIONS, ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS AND TAX-INDIFFERENT PARTIES. Call for our article: *IRS SHAKEDOWN – NEW TRAPS & TRENDS™* (by Rydstrom, Esq. LL.M.: rydstromlaw@yahoo.com).**



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