

U.S. Tax Court Decision Spells Big Win for IRS Whistleblowers

September 29, 2016

The IRS whistleblower program provides essential incentives to people with evidence of tax fraud to file a report with the IRS. The program allows a person to collect up to 30 percent of the amount the IRS recovers as a result of the tip she provides to the IRS, when the amount involved is over \$2 million and subject to certain other conditions. You can learn more about this program on our [Resources page](#) and on the [IRS website](#).

In an August 3 [decision](#), the United States Tax Court took a look at an important issue for whistleblowers eligible for rewards through the program. In the case, an anonymous pair of whistleblowers (a married couple, in fact), were eligible for collecting a reward through the whistleblower program, and the couple and the IRS agreed that the couple was eligible to receive 24 percent of the “collected proceeds” – the term used in the relevant law and regulations. Thanks to the couple’s tip to the IRS, the government collected nearly \$75 million; this amount included taxes owed and also a criminal fine and civil forfeitures that the fraud-committing taxpayer paid to the government.

The question for the Tax Court was: Does the value of the criminal fines and civil forfeitures count towards the “collected proceeds” used to calculate the whistleblower award? In a victory for these whistleblowers, and tax whistleblowers everywhere, the court decided that that answer is yes.

The Dispute: The IRS vs. Whistleblowers

Note that, in this case, the whistleblowers were challenging the IRS’ own determination that their award calculation should not include the value of the criminal fine and civil forfeiture. That is because the IRS argued, and has taken this same position previously, that only money collected under the legal obligations found within the U.S. Internal Revenue Code (Title 26 of the U.S. code) should count for calculating a whistleblower’s reward. Agencies like the IRS do get *some* say in setting programs like the IRS whistleblower program, but under our legal system, an agency cannot act contrary to the relevant congressional statute that governs an agency program.

The Tax Court decided that the IRS’ interpretation of the law setting up the IRS whistleblower program, 26 U.S.C. § 7623, requires a broader view of what makes up “collected proceeds” for calculating a whistleblower’s reward. The decision carefully looks at the way the U.S. Supreme Court and other courts have interpreted statutes – and specifically statutes that use the word “proceed” and similar general terms. The court here points out that, while Congress could have specifically defined “collected proceeds” in the statute, Congress did not do so. As a result, the court followed traditional rules of statutory interpretation in looking at the “plain or ordinary meaning” of the word. The decision describes “proceeds” as a “sweeping term” and, when viewed in the overall context, means simply “all proceeds collected by the Government from the taxpayer” – including criminal fines and civil forfeitures.

The Consequences

By expanding the award calculation for tax whistleblowers, the Tax Court has established a powerful precedent and cemented the important incentives for people to report tax fraud. The court showed, through thorough analysis of the words and purposes of the statute, how Congress intended to create “an expansive rewards program” for tax whistleblowers. For a program that has only existed in its current “expansive” form since 2006, this ruling is important to lend greater power to the rewards that Congress has found necessary to bringing tax fraud to light.

Also, the amounts involved in fines and penalties are substantial. In this tax court case alone, the criminal fine and civil forfeiture amounted to nearly \$38 million, or around half of the total \$75 million paid to the government.

The IRS continues to collect substantial amounts of money as a result of whistleblower tips, and in its [latest report to Congress](#), stated that that amount nearly doubled from around \$52 million in 2014 to around \$103 million in 2015. This recent Tax Court decision should serve as further encouragement to whistleblowers to come forward or, as the court put it, “if you know something, say something.”