

9th Circuit Labels Lawyer's Timeshare Donation Tax Shelter as 'Bogus Tax Scheme'



The 9th U.S. Circuit Court of Appeals in San Francisco has upheld a substantial \$8.46 million penalty against Montana lawyer James Tarpey for his involvement in promoting a timeshare-donation tax shelter. The court's ruling, issued on August 17, affirmed a federal judge's decision and deemed Tarpey's actions as part of a "bogus tax scheme." This case sheds light on the consequences of overvaluing properties in such schemes.

Through his charity organization "Donate for a Cause," James Tarpey offered a seemingly appealing proposition to individuals seeking to offload their unwanted timeshares. The deal involved donating timeshare properties to his charity, obtaining appraisals that inflated their value, and subsequently claiming charitable contribution deductions on federal tax returns. However, investigations revealed that the timeshare properties were ultimately sold on eBay for significantly less than their appraised values.

Tarpey's charity, "Donate for a Cause," facilitated the transactions, and his company, "Resort Closings," managed the closings for the donated timeshares. Donors were required to pay both a donation fee to the charity and timeshare transfer fees. Between 2010 and 2013, the charity received at least 7,600 timeshare donations. It was estimated that Tarpey earned over \$22 million in gross income from this operation.

The penalty assessed against Tarpey was based on the false statements he made regarding the timeshare appraisals. The federal judge ruled that the penalty should encompass the entire process of soliciting timeshare donations, conducting appraisals, and redirecting profits to other organizations. Moreover, the judge imputed income from the timeshare business to Tarpey, arguing that he functioned as the nonprofit's alter ego.

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The recent 9th Circuit ruling supported these findings, highlighting that Tarpey's activities constituted a larger tax scheme rather than isolated incidents of false statements. The court emphasized that the government wasn't confined to pursuing penalties solely based on funds stemming directly from false statement appraisals. Instead, the court viewed the 7,600 transactions as part of an overarching scheme that generated substantial gross income for both Tarpey and "Donate for a Cause."

The court's decision reaffirms the importance of accurate valuations and the potential consequences for those who engage in inflated appraisal schemes. Tarpey's actions, alongside his sister and two appraisers, were based on valuations that did not meet the criteria set forth by U.S. Treasury regulations for qualified appraisers.

The case underscores the seriousness of the legal system addressing tax shelters that rely on false statements or exaggerated valuations. While Tarpey had contested the penalties and the calculations thereof, the court ultimately determined that his activities were integral to the broader operation of the tax scheme. The ruling serves as a warning to individuals involved in similar schemes that they may face substantial penalties that encompass the entirety of their operations, rather than just isolated instances of false statements.

Don't be a silent ninja! Let us know your thoughts in the comment section below.