Editor
Prof. Dr. Arzu Karaca

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PREFACE

Social sciences and social scientists have great responsibilities in the development of society and country. As it is known, many phenomena such as reflections of socio-cultural life, human relations, political, legal and economic variables are within the scope of social and human sciences. There are many academic disciplines under the umbrella of social sciences such as international relations, geography, history, law, philosophy, educational sciences, psychology, theology, sociology, linguistics, archeology, political science, musicology, business, tourism. In this context, multidisciplinary scientific studies in these fields are very important and valuable in terms of understanding the present and shedding light on the future.

Eğitim Publishing House, which started its broadcasting life in 1998 with the policy of "making qualified scientific publications", supports scientists with its quality publications at national and international level. I am delighted to be the editor of the International Research in Social, Human and Administrative Sciences XIII, which is a product of this support, and to share this work with you. In our book, there are compilation and research studies in the fields of educational sciences, business and management.

I would like to thank our esteemed authors, Burçin TUTCU, Güler Ferhan ÜNAL UYAR, Dr. Özcan KOÇ, Erkan DÜNDAR, Nihat BİNGÖL, Gülgün ALPAN, Yusuf AVCI, Sedat GÖÇMEN, Yunus MIZRAK, who contributed to the preparation of this book with their valuable works. We hope that the work will be useful to academicians, students and all readers working in the field of social sciences.

Prof. Dr. Arzu KARACA

MAY - 2023

DISCUSSING CASES OF TAX EVASION: THE CASE OF DELAWARE

Burçin TUTCU[1], Güler Ferhan ÜNAL UYAR[2]

INTRODUCTION

The United States of America (USA), which is a federal state, has shaped its administration system within the framework of a three stage structure due to its federal structure. In this context, the federal state is the first level administrative unit; the states second level administrative unit; local governments constitute the third level administrative units. In the USA, the Internal Revenue Service (IRS), which is affiliated to the treasury, is responsible for the administration and enforcement of tax laws. One of the most important functions of the IRS is the enforcement of tax laws and the examination of noncompliance taxpayers. In this case, natural and legal persons in the USA must comply with both federal and state laws.

According to the news of the New York Times in 2012, the state that is famous for being a tax haven in the USA is stated as Delaware. According to the news, among the companies in Delaware, which were shown as the addresses of 285,000 companies on paper at that time, there were also: American Airlines, Apple, Bank of America, Berkshire Hathaway, Coca-Cola, Ford, General Electric, Google, JPMorgan Chase etc. Large corporations and small businesses alike have all come to Delaware in the hopes of minimizing taxes, evading regulations or covering their tracks when necessary.

In the news, Delaware, in which it is stated that establishing a front company is not a problem, is the subject of our study. First of all, 16 files obtained from the Casetext site (the subject, who the defendants and plaintiffs are, the size of

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the taxes smuggled, which laws and penalties were imposed) were tried to be examined.

For this purpose, first of all, the literature study will be mentioned, then the method of the study and the examination of the cases one by one will be discussed, and finally the results and recommendations of the study will be included.

LITERATURE STUDY

Some studies in the literature are explained below:

In the study conducted by Bilgin (2015), it was aimed to examine the 17785 decisions given by the Denizli Administrative Court. For this purpose, the period between 1998 and 2010, when the court started operating, was accepted as the review period. Among the total cases, the number of cases involving civil servants is 7597, which corresponds to approximately 43% of the total. It has been seen that the lawsuits filed due to the "officer registry book" have taken the most important place among civil servant lawsuits. In these cases, while the civil servants are suing for negative records that are required to be reported to them by the administration; In accordance with the Access to Information Law, it has been seen that lawsuits have started due to grades below 90 points. In addition, disputes arising from temporary assignment, dismissal, housing affairs and dismissal/resignation of civil servants were also noted.

In the study conducted by Ala (2016), the aim was to present some suggestions for the resolution of tax disputes in the light of the data obtained as a result of the analysis made in terms of the types of decisions made in 8095 cases filed in Edirne Tax Court between 2010 and 2015. For this purpose, it has been revealed that there are very comprehensive problems both in the stage of establishment of the taxation process, in the stage of administrative solutions, and in the way of judicial solution. At the point of solving these problems, 'instead of applying local measures, first of all, tax disputes do not arise by acting in accordance with the principle of the rule of law', then 'the conflicts that arise despite the measures taken are resolved by peaceful resolution between the taxpayers and the administration' and at finally stage, it was concluded that 'comprehensive reforms should be made to resolve disputes brought to the judiciary in a short time and in a fair manner'.

The aim of the study by İrteş Gülşen (2018) was to determine how many of the tax cases in Istanbul Tax Courts were concluded in the same year and how many were transferred to the next year. For this purpose, it has been seen that a total of 152,571 lawsuits were brought to the tax courts in 36 provinces, 68.4% of these lawsuits were filed during the year, and 27.8% of them were those brought over from the previous year. It was understood that 72.4% of the total incoming cases were resolved within the year, and 27.6% were transferred to 2017. In

other words, almost one third of the total lawsuits filed were transferred from the previous year, while almost one third of the total lawsuits were transferred to the next year.

The aim of the study by Doğan and Ünal Uyar (2020) was to emphasize the importance of forensic accounting in the fight against tax evasion, which has an important place among financial crimes. In this context, in the first part of the study information about the scope of forensic accounting was given, then tax evasion crime was mentioned based on the tax legislation in Turkey and in the last part the role of forensic accounting in the determination of tax evasion crime was tried to be explained by analyzing a case study from a real case file. Evidence in this case study, which was submitted to the court, was examined within the framework of forensic accounting and it was tried to determine to what extent forensic accounting was used in the resolution of the case.

In our study, unlike these studies, the cases downloaded and filtered from the Casetext Law website will be examined one by one with document analysis, the results will be determined and suggestions will be developed.

For this purpose, firstly, information about the research method will be given, then 16 cases will be discussed and finally results and suggestions will be presented.

MATERIALS AND METHODS

Casetext site is a legal site where court files are included and interpretations are made by lawyers about the decisions taken in these court files. On the site, comments are made about whether the judge's decisions are right or wrong, or whether they are partially right or wrong. The cases on this site were downloaded by us, but the comments made by the legal site as right or wrong decisions were not taken into account, and only the 'real decisions' made by the judge were examined.

Before downloading cases on the site, filtering was applied. Firstly, the terms 'Delaware' and 'tax evasion' were selected and the cases found were downloaded. When the 28 case files are examined one by one, it is seen that the subject does not actually include tax evasion at all, and that some subjects are included in the case as just a word or two. Added 'tax courts' and the period '2000-2022' to the filtering to narrow the scope so that only cases related to actual tax evasion are uncovered. This was both to access more recent files and to ensure that the NYT's 2012 news coverage covers the period when Delaware was the most notorious tax haven and shell companies were most founded.

The cases that emerged were examined, summarized and interpreted one by one with the 'document analysis' technique, which is a 'qualitative data analysis' technique.

Before examining the files, it is useful to explain some abbreviations and additional information for easier understanding:

IRC: Internal Revenue Code. It is the local part of the federal statutory tax code in the United States and is organized into subheadings and sections covering income tax, payroll taxes, estate taxes, and excise taxes, as well as procedure and administration.

IRS: Internal Revenue Service. It is the agency responsible for enforcing tax laws in the United States. It corresponds to the Revenue Administration in Turkey and works under the Ministry of Treasury and Finance.

USC: United States Code. For example, 18 USC 1355 means title 18, clause 1355.

Del: The official abbreviation for the state of Delaware. 19 Del 2365 is to be understood as Delaware state law, title 19 and clause 2365.

Citizens of each state in the US are required to comply with both US law and their own state law. All of the case studies were taken from real cases, but some names were deemed appropriate to be hidden by the law firm.

EXAMINATION OF CASES

Looking at the cases, the defendant and plaintiff side of each case and the decision date of the trial, a brief summary of the event, the articles of the law that were tried and the sentences given by the judge with these articles are included.

All of the events were seen in tax courts and took place in the state of Delaware. According to the content of the case, some cases fall under the statutes of the state of Delaware, as well as the provisions of US federal state law (such as 19 Del 2365 and 26 USC 7206 in case 1); others have been evaluated solely on the basis of articles of US federal state law (such as 26 USC 6651(a)(2), 26 USC 6651(f), 26 USC 6654 in case 5).

Looking at the cases in general,

The majority appear to have filed against IRS commissioners. This means that 'IRS personnel miscalculate, fail to calculate or fail to adequately notify litigants'. More precisely, the plaintiffs filed the case with one of these claims.

Not all cases result in prison sentences. A total of 4 cases, 1st, 5th, 11th and 13th cases, result in imprisonment.

In 9 cases, there are clauses 26 USC 6651 and clauses 26 USC 6654 and 26 USC 6663.

Considering these articles, it is estimated that the common subject of the lawsuits is tax evasion, and it is generally based on not filing a declaration, giving incomplete or not paying the tax.

In the majority of cases, the plaintiffs were unable to resist the court and confessed to their crimes.

Additional considerations in cases include:

In the first case, it should not go unnoticed that the issue was escalated and brought to the tax court when the personnel working in the Financial Institution was injured while on the job and filed a lawsuit with the District Court. The plaintiff came under the lens of the IRS with successive hikes, and everything came to light when the District Court realized the situation. Subsequently, this case resulted in the plaintiff being punished with probation, receiving compensation from the workplace due to the work accident, and the defendant dismissing the plaintiff rightly in accordance with the employee handbook.

In the second case, UPS's shareholders sued the board of directors for tax evasion, but there was no penalty for failing to provide sufficient evidence, and the case was dismissed.

The point to be considered in the third case is that the Office of Disciplinary Counsel (ODC) sues the registered lawyer as the plaintiff on the grounds that he does not comply with the professional rules.

For this reason, the articles that are the subject of the lawsuit are the articles of the chamber discipline regulation. As a result, he was dismissed from his attorneyship for 6 months and 1 day, and it was decided to calculate the taxes he missed.

After the special cases are explained, the information of all cases (as in the file) is given in order:

Case 1

Defendant: Community Bank Delaware Financial Institution

Plaintiff: Lorne Adams (employee)

Decision date: 27.01.2022

Summary: 1. The plaintiff was given more than one salary increase. Plaintiff, who started with $70,000, was investigated by the IRS after a salary of $120,000 (with the latest raise). On January 24, 2020, Plaintiff pleaded guilty in U.S. District Court of Delaware to 'making false statements regarding his tax return' in 4 violations of 26 USC 7206(1)[3]. The plea aggreement[4] included waiving any right to appeal.

2. On 20 December 2019, the Plaintiff filed a complaint alleging that the Defendant violated 19 Del 2365 by terminating his employment after claiming compensation.

3 26 USC 7206(1): Fraud and false statement.

4 Plea aggreement means an agreement between the prosecution and the accused that sets out the specific terms and conditions and criminal charges against which the accused pleads guilty or has no objection.

NOTE: After the plaintiff confessed his guilt, the matter was moved to the Tax Court. The plaintiff's reason for filing a lawsuit in District Court was his injury in a work accident, but the investigation by the IRS caught the judge's eye and the matter was settled in tax court.

Relevant Articles: 26 USC 7206, 19 Del. 2365[5].

Result: 1. Plaintiff was sentenced to an 18 month probation, further ordered by the defendant to pay the plaintiff $112,628 in damages and a $10,000 fine.

2. Since the continuation of employment after the conviction would violate the defendant's "employee handbook", the defendant was right in this part and the plaintiff's dismissal became final.

3. The tax court, on the plaintiff's confession, was found guilty of 4 violations of 26 USC 7206 and ruled that the tax liens, penalties and additional amounts to be calculated in between.

Case 2

Real Defendant: UPS (United Parcel Servise) (On behalf on Real defendant Board of Directors)

Plaintiff: UPS shareholders 1.Joseph HORMAN and 2.Steven GREEN

Decision date: 19.01.2017

Summary: The shareholders of UPS, which distributes more than 18.3 million packages a day, sued the company's Board of Directors for condoning tax-free cigarette shipments.

(UPS is subject to various regulatory regimes governing the shipment and delivery of cigarettes and other tobacco products. FOR EXAMPLE, the City of New York has adopted a structure that imposes an excise duty on cigarette packages held for sale in its jurisdiction. This is because rising costs reduce demand for tobacco products, thus creating a direct public health benefit.)

The plaintiffs filed their complaints on May 2, 2016, after receiving the books and records from the company under 8 Del 220.

On June 15, 2016, the defendants filed a motion to dismiss the complaint.

Relevant Articles: 8 Del. 220, 18 USC 2341[6], 15 USC 375[7].

Result: The Delaware General Corporations Act states that directors, not shareholders, must run the corporation.

The court considers two situations when determining whether the request on the board will be futile. The first applies if a litigant objects to the affirmative action decision of the board of directors.

5 19 Del 2365: Employee entitled to exercise rights; relief to be granted.
6 18 USC 2341: Definitions.
7 15 USC 375: Definitions.

The second (which applies here) applies when 'a plaintiff objects to the board's inaction', such as 'alleged that a board deliberately neglected its oversight duties'.

Here, both the Delaware District Court, the Supreme Court, and the Tax Court DISCLAIMED the plaintiffs' action, as insufficient evidence was presented by the plaintiffs.

NOTE: This case was dismissed for lack of evidence in every court it was moved to.

Case 3

Defendant: Lawyer Roberts BRIA

Plaintiff: ODC

Decision date: 16.12.2013

Summary: Defendant was registered with the Delaware Bar in 1988. He ceased to be an employee in 2007 and became a partner in his current office. In the spring of 2008, he made a mistake in the 'Turbotax' software program as he could not understand how to declare the partnership income from the K1 form issued by the partnership. He has requested an extension of the filing date for his federal taxes in 2008 and beyond. He testified in the program that he "did not apply for state extensions because he believed (mistakenly) that filing for federal extensions would automatically result in state extensions."

In the 2011 Delaware Supreme Court Annual Enrollment Statement, the defendant stated that he had not filed State and Federal income tax returns for 2007-2009, but claimed that he had "requested an extension each year."

Defendant clarified in his 2012 Delaware Supreme Court Annual Registration Statement that he did not file State and Federal income tax returns for the years 2007-2010.

For the 2007 tax year, Defendant did not file tax returns or pay federal income taxes on time.

Since 3 September 2010 he has received a series of notices reporting this negligence.

Similarly, Defendant has filed a timely extension of Federal taxes for the 2007 tax year, but has taken no further action to extend the tax filing or payment deadline.

The declaration for this year was submitted on 14 March 2013, and the unpaid tax debt on this date was also paid.

Relevant Articles: ODC - Rule 8.4 (b), (c), (d).

Result: (1) 8.4(b), deliberate failure to file state and federal income tax returns.

(2) 8.4(c), Submitting incomplete and misleading information with Supreme Court Records of Enrollment each year.

(3) 8.4(d), engaging in acts that would undermine the administration of justice.

1) From March 4, 2014 to September 5, 2014, the defendant was barred from practicing law for six months and one day.

2) During the suspension, he will not take any action that directly or indirectly constitutes the practice of law, including the sharing or collection of any legal fees. He was also prohibited from contacting clients or prospective clients or witnesses or prospective witnesses. It was decided to pay all tax debts.

Case 4

Defendant: IRS Commissioner

Plaintiff: Vincent ALLEN

Decision date: 05.03.2007

Summary: The plaintiff, a truck driver who worked for UPS from 1999-2000, filed his Form W-2[8], section 401(k)[9] statement, mortgage interest statement, and property returns filings on time for the years 1999 and 2000.

It was Gregory Goosby who drafted the plaintiff's statements and presented them to the defendant. Made wrong cuts; these included cuts for donations, meals and entertainment, pagers, and computers.

Defendant identified a deficit of $4,428 in plaintiff's Federal income tax for 1999 and $7,784 for 2000. Plaintiff accepted and received the notice, but did not submit the amended (corrected) statement.

Relevant Articles: IRC 6501(c)(1) [10].

Result: If a refund is fraudulent, regardless of whether the fraud was committed by the taxpayer or financial adviser, the limitation period is extended indefinitely under IRC 6501(c)(1). The ordinary 3 year statute of limitations for the taxation of the plaintiff's tax returns for the years in question expired on April 15, 2003 and April 15, 2004, respectively. Plaintiff filed a petition in due time. The parties also agree that the plaintiff (himself) has no intention of tax evasion, therefore, the plaintiff will only pay the missing taxes, not compensation under the presumption of good faith.

8 Form W-2, also known as the Wage and Tax Statement, is the document that an employer reports to each employee's wages and deductions and must submit to the IRS at the end of the year.
9 401(k) is an employer-provided retirement savings plan with tax benefits for savers.
10 IRC 6501: In case of false or fraudulent statement for tax evasion, tax can always be levied without assessment or a lawsuit can be filed in court for the collection of this tax.

Case 5

Defendant: IRS Commissioner

Plaintiff: 1. John Edward BARRINGTON and 2. Deanna Barrie BARRINGTON

Decision date: 06.07.2022

Summary: From October 2001 to July 2002, John Stewart Jakows served time in a Florida prison on a felony conviction for fraud and theft.

After his release, he changed his name to John Edward Barrington and went into a real estate business with his wife, Deanna Barrington.

In reality, the business was a fraud. During 2003, 2004 and 2005, the Barringtons ran the business through three Florida companies, collectively called Barrington Corp.

Together, they were officers, directors, and sole shareholders of Barrington Corp. They gave the impression that Mr. Barrington was a seasoned salesman in central Florida.

Investors and homebuyers believed this and entrusted more than $6 million in funds to them. Ms. Barrington worked for other companies in 2003 and earned $45,234 in real estate sales commissions, but stopped working at other companies as she became more involved with Barrington Corp.

The Barringtons hired staff and hired lawyers for the job.

Law firm Infantino & Berman has represented Barrington Corp. on a variety of real estate matters (e.g. contract drafting, homeowners association documents). Barrington Corp. paid this firm $21,667 in 2005.

The Commissioner identified shortfalls in the Barringtons' federal income tax for 2003, 2004, and 2005.

The Commissioner notified each of the Barringtons a separate shortcoming. The Commissioner identified a deficiency of $31.706, $17,750, and $147,033 for Mr. Barrington and $37,007, $17,750, and $146,916 for Mrs. Barrington. In addition, for each of the Barringtons, it also determined tax additions pursuant to section 6651(a)(2), section 6651(f) and section 6654 for three years.

Relevant Articles: 26 USC 6651(a)(2)[11], 26 USC 6651(f), 26 USC 6654.

Result: As part of their plea agreement, the Barringtons acknowledged receiving certain items of revenue for 2003, 2004 and 2005. The Barringtons did not hide their records. The Commissioner decided that the Barringtons were liable

11 26 USC 6651 (a)(2): to pay the amount shown as tax on any return specified in paragraph (1) on or before the date prescribed for payment of such tax (determined with regard to any extension of time for payment), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount shown as tax on such return 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate; 26 USC 6651 (f): If any failure to file any return is fraudulent, paragraph (1) of subsection (a) shall be applied— (1)by substituting '15 percent' for '5 percent' each place it appears, and (2)by substituting '75 percent' for '25 percent'; 26 USC 6654: Failure by individual to pay estimated income tax.

in addition to tax for failing to file timely returns pursuant to section 6651(a)(1) for each year issued. The Commissioner also decided that the addition to the tax should be calculated at the increased rate due to fraud.

It also determined additions to the tax for each year due to failure to make timely payments pursuant to clause 6651(a)(2) and not to make estimated tax payments pursuant to clause 6654. The court also upheld this decision.

Case 6

Defendant: IRS Commissioner

Plaintiff: Architect Bennett

Decision date: 22.12.2014

Summary: Plaintiff and his wife, Beverly Bennett, filed joint statements from 1970 to 1993. In joint returns for 1992 and 1993, the Bennetts had nearly $90,000 in debt that they had not paid in full. A declaration was drawn up for 1994 but apparently not filed. In this case, no declaration was given for the years in question. On December 9, 1996, they filed for bankruptcy and dropped the bankruptcy filing for fear of bad consequences.

Year	Deficiency	6651(f)(1)	6651(a)(2)
1995	128.770	93.358	32.192
1996	125.550	91.023	31.387
1997	148.087	107.363	37.021
1998	223.584	162.098	55.896
1999	177.637	128.786	44.409
2000	337.105	244.401	84.276
2001	280.939	203.680	70.234
2002	368.152	266.910	92.038
2003	284.406	206.194	71.101

The amount specified above for the penalty under Article 6651(f) for each taxable year is up to 75% of the amount required to be shown as tax on the return.

These amounts will be reduced to 72.5% if the court continues the additions to the tax under Article 6651(a)(2).

Plaintiff had control over the bank accounts and brokerage accounts into which it deposited the gross revenues from its architectural services. Some of the accounts were opened in the name of the organizations he founded.

The money deposited into these accounts was $300,000 in 1995, 1996 and 1997; It exceeded $500,000 in 1998 and 1999 and $1 million in 2000, 2001, 2002 and 2003.

Neither the plaintiff nor the organizations he founded filed a tax return declaring the plaintiff's income for architectural services.

His tax adviser and tax return preparer tried to dissuade him, but without success..

Relevant Articles: 6651(f), 6651(a)(2).

Result: On February 9, 2006, the plaintiff was charged with various Federal evasion allegations, including income tax evasion, in violation of article 7201 from 1999 to 2003.

He was found guilty by a jury and was decided by the District Court on August 18, 2008.

The plaintiff was sentenced to 78 months in prison.

In June 2009, his conviction was upheld by the Ninth Circuit Court of Appeals, which found, inter alia, that the evidence during the criminal trial was sufficient in terms of intent.

The plaintiff served more than five years of his sentence in prison and was released in November 2013.

Case 7

Defendant: IRS Commissioner

Plaintiff: Michael L. CANTRELL (Soldier- United States Army Space and Missile Defense Command- USASMDC)

Decision date: 30.08.2017

Summary: This case is filed by the defendant to challenge the defendant's fraud penalty determination pursuant to 26 USC 6663[12] for the tax years from 2001 to 2005. Defendant made a deficiencies notification and determined the following deficiencies and penalties:

Year	Deficiency	6663
2001	34.377	25.783
2002	132.041	99.031
2003	63.450	47.588
2004	86.728	65.046
2005	34.926	26.195

The plaintiff admitted the deficiency, but objected to 6663.

During the years at issue, the plaintiff was employed with the USASMDC. USASMDC contracts with R&D companies. In USASMDC, plaintiff's subordinate proposed a settlement with the owner of one of the companies.

12 26 USC 6663: Imposition of fraud penalty.

Under the agreement, the plaintiff and his subordinates would receive things of value, including money, for their assistance in giving the owner choices about proposals, contracts, financing contracts, and approving purchases from vendors and subcontractors. From 2001 to 2007, the plaintiff received payment in the form of checks, cash, and wire transfers in exchange for the owner's activity to finance USASMDC contracts that benefit their companies. From 2001 to 2005, the plaintiff received bribes totaling $955,535 for failing to file Federal income tax returns.

The Claimant has prepared its own Federal income tax returns for the years in which it was issued.

He used TurboTax software to prepare and submit federal income tax returns prior to taxable years and in the years in which they were issued.

Due to an error, the petitioner filed the 2004 statement via paper filing. For tax years 2001, 2002, 2003, and 2005, the plaintiff purchased an updated copy of TurboTax each year, imported the previous year's information, filled out the tax return, and forwarded it to the IRS.

Relevant Articles: 26 USC 6663.

Result: The District Court ruled on the criminal case on January 6, 2010. Plaintiff was found guilty of conspiracy to defraud the United States, bribery as a public official, and tax evasion for 2002.

The ruling also included the IRS's finding that the plaintiff was the victim of criminal behavior and suffered $358,145 in damages from 2002 to 2005, which the plaintiff was ordered to pay in damages.

NOTE: In this case, the plaintiff has not paid the compensation awarded as of the date of trial.

Case 8

Defendant: IRS Commissioner

Plaintiff: Michael CROSBY

Decision date: 31.10.2022

Summary: On April 12, 2011, a criminal indictment was filed in the U.S. District Court for the District of Delaware, accusing the plaintiff of twenty wire and mail frauds, three counts of money laundering, and four counts of tax evasion related to the tax years (2004, 2005, 2006, and 2007).

On June 28, 2011, a plea aggreement and Sentencing Clause was filed in the U.S. v. Crosby case in the U.S. District Court for the District of Delaware.

Through the plea aggreement, Mr. Crosby pleaded guilty to failing to file a tax return for the 2006 tax year in violation of 26 USC 7201[13], as well as aiding

13 26 USC 7201: Attempt to evade or defeat tax.

and abetting radio fraud under 18 USC 1343.

Between 2004 and 2007, the defendant admitted that he had turned the investor's money for his personal use and thus became income. Defendant specifically admitted that his personal income in 2006 was at least $2,263,097.

Defendant was required to file income tax and pay $722,109 in taxes for 2006 by April 15, 2007.

Defendant determined that Mr. Crosby was liable for a deficiency of $792,187 for tax years 2004 through 2010 and an additional tax of $574,335.57 to the tax amount under section 6651(f) for the 2006 tax year.

On 19 April 2006, Mr Crosby filed a timely petition with this Court to review the defendant's findings.

Relevant Articles: 26 USC 6651(f), 7201 and 18 USC 1343[14].

Result: Defendant determined that Mr. Crosby had a deficiency in income tax of $792,187 for the 2006 tax year.

In the Plea Agreement, Mr. Crosby acknowledged that he owed $722,109 in income taxes for the 2006 tax year; this is less than the defendant determined in the Notice of Deficiency.

It was decided to pay the total amount.

Case 9

Defendant: IRS Commissioner

Plaintiff: Lakeisha DEGOURVILLE

Decision date: 12.09.2022

Summary: By notice of deficiency dated January 19, 2016, defendant determined a $139,249 shortfall in plaintiff's federal income tax for the 2012 tax year and a civil fraud penalty of $100,022 under 26 USC 6663.

The plaintiff was a licensed beautician and an experienced tax return preparer. She only owned and operated a tax preparation company (TaxTime) and a hair salon (Xplosions Hair Design) during that year, and also coowned a restaurant with her husband. Plaintiff and her husband opened bank accounts at SunTrust Bank to manage the cash flow from each of these businesses.

Before running his own business, the claimant worked as a tax return preparer for Expert Tax Services from 2007 to 2009. He also took the time to advance his tax expertise by attending various courses and seminars on individual tax return preparation. Eventually, he gathered enough information to host his own tax return preparation courses, which he ran from 2011 to 2016.

14 18 USC 1343: Fraud by wire, radio, or television.

Plaintiff and her husband purchased six properties in Muscogee County, GA for cash or cash equivalents; paid $366,436 in cash to finance the construction of a 3,727 square foot home on one of these properties. In addition, the plaintiff purchased six vehicles in cash between 2010 and 2013. It provided no disclosures or records of cash transactions.

On July 28, 2014, defendant assessed a $45,000 default penalty under section 26 USC 6695(g) for the 2012 taxable year.

Analysis of the defendant's bank deposits found that the plaintiff's gross income from his businesses was (significantly) underestimated.

Analysis shows that for the 2012 tax year, the petitioner reported gross income of $36,127 when bank deposits were $439,705 attributed to him (more than ten times the correct amount).

As a result of significantly underreporting his income and filing an improper claim to the EITC , the petitioner did not pay any taxes for 2012 and instead received a refund of $2,886.

Relevant Articles: 26 USC 6663, 6695(g)[15].

Result: 1. Article 6663(a) imposed a penalty equal to 75% of the taxpayer's underpayment of federal income tax due to fraud.

2. The fact that he substantially under reported his income and, as a result of his improper claim to the EITC, received a $2,886 reimbursement for 2012 as a result of the plaintiff not paying any taxes, revealing fraudulent intent.

3. Plaintiff originally filed for head of household status while married and residing with her husband (Married and coshare taxpayers must file a joint income tax return to qualify as EITC).

Case 10

Defendant: IRS Commissioner

Plaintiff: Steven Eugene EDWARDS

Decision date: 15.06.2016

Summary: Defendant identified a deficiency of $1,054,142 in plaintiff's Federal income tax in 2000 and a fraud penalty of $790,606.50 under 26 USC 6663 (fraud is 75% of the deficiency).

In the amended reply, the defendant claimed a $202,953 increase in income tax delinquency and a corresponding increase in the fraud penalty of $152,214.75. Plaintiff owned Magna Corp, a business ostensibly involved in insurance sales and staff hiring.

15 26 USC 6695(g): Failure to be diligent in determining eligibility for certain tax benefits.

In 2000, the plaintiff collected health and workers' compensation insurance premiums from various employers and declared to them that they had health and workers' compensation coverage, whereas in fact this was not the case.

Undeclared/under declared incomes:

1. Underreporting $54,429.25 in interest income (year 2000): reporting it as $12,937.

2. 8 checks, totaling $1,451,114.16 (The Plaintiff's Owl's Woods residence had two walkin safes and a portable safe in which he kept cash)

3. Checks and invoices that plaintiff received from Sunshine Co for $128,239.27 in 2000 for commissions from sales of workers' compensation and health insurance

4. Commission payments made to him by the Fidelity Group in 2000 (by check for $276,528.37)

5. A total of $1,111,000 he received in his private pension account

6. Checks for $207,936 paid to plaintiff's motorcycle shops

Relevant Articles: 26 USC 6663, 18 USC 1341[16], 1343, 1957[17], 1014[18], 669[19].

Result: It has been determined that the plaintiff refrained from issuing property titles in his name in order to prevent the government from noticing. It has been determined that the aforementioned checks totaling $1,451,114.16 were paid to the plaintiff himself. On July 26, 2005, the plaintiff was found guilty by a grand jury in the District Court (District Court).

Plaintiff was charged with 12 counts of mail fraud under 18 USC 1341;

3 electronic scams under 18 USC 1343;

1 financial institution money laundering under 18 USC 1957;

2 false statements made to a bank under 18 USC 1014;

1 theft of health funds under 18 USC 669 and

3 cases of tax evasion under 26 USC 7201.

Defendant claimed that there was a $202,953 increase in plaintiff's tax deficit and a corresponding $152,214.75 increase in fraud penalty under 6663.

The defendant proved fraud and tax evasion with documents, as well as with the plaintiff's confession.

16 18 USC 1341: Frauds and swindles.
17 18 USC 1957:Engaging in monetary transactions in property derived from specified unlawful activity.
18 18 USC 1014: Loan and credit applications generally; renewals and discounts; crop insurance.
19 18 USC 669: Theft or embezzlement in connection with health.

Case 11

Defendant: IRS Commissioner

Plaintiff: Mr Ervin

Decision date: 23.06.2021

Summary: The plaintiff was married to Patricia Ervin. Together they owned real estate management companies that generated substantial rental income, often paid in cash. Together, they did not file Federal income tax returns for 2000-2009.

Plaintiff filed a timely petition with this Court in January 2015 and (about a year later) fully complied with its extradition obligation. After the plaintiff was detained, the Internal Revenue Service (IRS or defendant) completed a civil review of him for the 2002-2007 tax years.

Relevant Articles: 26 USC 6651 (a)(1), (a)(2), 6654.

Result: He was convicted of tax crimes between 20042006.

He was sentenced to prison in June 2012 and ordered to reimburse the tax loss amount of $1,436,508.

These decisions were also upheld by the Supreme Court.

Case 12

Defendant: IRS Commissioner

Plaintiff: 1. Isidro GARZA JR. and 2. Martha C. GARZA

Decision date: 05.01.2017

Summary: In 1995, the plaintiff husband founded Bay Area Consultants (BAC), an engineering firm. The plaintiff's wife had worked as the office manager and accountant of BAC. The plaintiff's spouse had never received formal or informal training in bookkeeping or record keeping. The BAC did not file any Federal income tax returns for any year after 1995.

At the same time, the plaintiff husband also operated a casino.

The defendant found that:

Year	Deficiency	6663	6651(a)(1)	6651(a)(2)	6654
1998	47.791	35.843	-	-	-
2000	109.136	-	24.555	27.284	5.870
2001	105.569	-	23.753	26.392	4.219
2002	145.329	108.996	-	-	-

The plaintiffs did not provide any evidence of adequate books and records for the years 2000 or 2001, when they did not file tax returns and neglected their income of $317,814 and $313,207 respectively. There is also no evidence that the plaintiffs began keeping books and records for 2002.

Relevant Articles: 26 USC 6663, 6651 (a)(1), (a)(2), 6654.

Result: The Defendant showed, with clear and convincing evidence, that the plaintiffs underpaid their taxpayer money between 1998 and 2002, and that some of the plaintiffs' underpayments for each year were due to fraud.

Plaintiffs have failed to provide any credible evidence to prove that any part of either underpayment could not be attributed to fraud.

Plaintiffs were liable for civil fraud penalties under 6663 for the 1998 and 2002 tax years.

Case 13

Defendant: IRS Commissioner

Plaintiff: David GILMARTIN

Decision date: 23.06.2022

Summary: 26 USC 6654 applies to a person who underpays their estimated tax (tax surcharge).

According to 26 USC 6654(c) and (d), the tax supplement is calculated based on the taxpayer's payment of the required four installments of the estimated tax liability.

Each mandatory installment is equal to 25% of the 'required annual payment' amount.

26 USC 6651(a)(2) provides an additional 0.5% monthly tax, up to 25%, for nonpayment of the amounts shown in the return, unless the failure can be shown to be due to reasonable cause and not intention.

1997: 33.163, 1998: 9.971, 1999: 34.586, 2000: 43.357, 2001: 31.173, 2002: 13.779, 2004: 10.095, 2005: 36.599, 2006: 3.448, 2008: 21.831, 2009: 26.797, 2010: 24.363.

These penalties include penalties from Articles 6651(a)(2), 6651(f), and 6654.

The claimant holds a PhD in economics.

During her graduation, she worked as an economist for various employers and clients.

Plaintiff's clients include General Electric Capital Corp., Pfizer Inc., WCI Financial Corp., NU Skin International, the Builders Association, National Economic Research Associates, Allegiance Group.

These businesses paid the plaintiff a salary and provided him with Forms W-2.

In 1997, the plaintiff received $29 and $31 in interest income from Chase Manhattan Bank and First National Bank, respectively.

These organizations have shown these interest on the 1099-INT[20] form reporting these payments.

The following year, the plaintiff received $671 for the sale of stock and bonds.

In connection with this, the plaintiff filed Form 1099-B reporting the proceeds of the First Chicago Trust Co's sales.

In 2005 and 2006, the plaintiff received dividends of $17,063 and $11,045, respectively, from an investment account held at Sungard Business Systems (Sungard).

Sungard has filled out forms 1099-R, Pensions, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc., declaring that these distributions are taxable.

Plaintiff did not file federal income tax returns for taxable years from 1989 to 2010.

On July 30, 2018, the defendant sent a notice of deficiency to the plaintiff stating that he had taxable income:

1997: 51.500, 1998: 116.106, 1999: 23.285, 2000: 108.442, 2001: 127.481, 2002: 118.820.

Relevant Articles: 26 USC 7201, 6673(a)(1)[21], 6654 (c), 6654 (d), 6651 (a) (2), 6651 (f), 18 USC 1341.

Result: Prior to the trial, he was convicted, among other things, of tax evasion under 26 USC 7201.

Under 26 USC 6673(a)(1), the plaintiff was fined $5,000.

On June 25, 2012, a grand jury found the plaintiff guilty of:

(1) Attempting to corrupt and impede the proper administration of local revenue laws pursuant to 26 USC 7212(a)[22].

(2) Tax evasion under 26 USC 7201 and 18 USC 1341.

On July 16, 2013, after a jury trial, the Delaware District Court delivered a guilty verdict for each claim counted in the indictment.

The district court ordered 4 years imprisonment, 3 years probation and $1,672,399.62 in damages

20 1099-INT Form: Interest Income. It is the IRS form that shows interest income.
21 26 USC 6673(a)(1): Tax court proceedings, procedures instituted primarily for delay, etc.
22 26 USC 7212(a): Attempts to interfere with administration of internal revenue laws (corrupt or forcible interference).

Case 14

Defendant: IRS Commissioner

Plaintiff: Gary Ward, Marie Ward (couple)

Decision date: 29.05.2013

Summary: According to 26 USC 6663 and 6651(a), the defendant determined the couple's tax deficit as follows:

2002: 74.220, 2003: 624.839, 2004: 1.061.238, 2005: 1.417.028, 2006: 2.185.776, 2007: 1.910.006.

Defendant calculated increased deficiencies and penalties under section 26 USC 6214(a):

2002: 757.164, 2003:747.878, 2004:1.074.445.

Plaintiff's spouse sought exemption from liability for income tax and tax surcharges (determined by the defendant) for all tax years issued pursuant to 26 USC 6015(b) or (f). Defendant determined that the plaintiff wife was entitled to exemption under section 6015(b) to the extent that tax deficiencies and additions could be attributed to the plaintiff husband's faulty items. The plaintiff husband had worked as a financial advisor for more than 25 years. In May 2010, he pleaded guilty to US District Court for the District of Delaware on one charge of tax evasion in violation of 26 USC 7201.

Plaintiffs filed joint Federal income tax returns on time for the 2002, 2003, and 2007 tax years. Plaintiffs filed their joint Federal income tax return for the 2005 tax year on April 11 and April 16, 2008.

On September 29, 2008, the defendant received additional joint Federal income tax returns from petitioners marked as 'modified' for the tax years 2005 through 2007 and failed to process those returns.

Relevant Articles: 26 USC 6651(a)(1), 6662(a) [23], 6663, 7491(c)[24], 6214, 6015(b) and (f).

Result: Plaintiff failed to provide sufficient evidence that records were kept to support his tax returns or income from his various businesses.

Plaintiffs were held liable for additions made to the tax pursuant to Article 6651(a)(1) for the 2005 and 2006 tax years.

23 26 USC 6662(a): Imposition of accuracy-related penalty on underpayments, imposition of penalty.
24 26 USC 7491(c): Burden of proof, penalties.

Case 15

Defendant: Husband and wife (whistleblowers) who report a tax evader

Plaintiff: IRS Commissioner

Decision date: 03.08.2016

Summary: The smuggler taxpayer was found guilty of 18 USC 371 and pleaded guilty.

He would pay $74,131,694 to the state.

Meanwhile, under the 26 USC 7623[25] Tax Notice Laws, the whistleblower(s) were entitled to 24% of the amount transferred to the government.

Despite their timely reporting, the IRS did not pay this amount, and filed a lawsuit against the petitioners with 'conspiracy accusations'.

Charges of conspiracy are fraudulent statements made under penalty of 'tax evasion' in violation of 26 USC 7201 and 'perjury' in violation of 26 USC 7206(1).

Relevant Articles: 18 USC 371[26], 3571[27], 26 USC 7623.

Result: The smuggler taxpayer paid a total of $74,131,694. This amount includes: $20,000,001 tax refund, $22,050,000 in fines, a civil loss of $15,821,000 representing the taxpayer's fees from its US customers, waiver of all claims of $16,260,693.

In addition, the file of the IRS was found insufficient.

As a result, it was also decided to pay $17,791,607 ($74,131,694 x 0,24) to the petitioners, namely the informants.

Case 16

Defendant: Unnamed P

Plaintiff: IRS Commissioner

Decision date: 12.06.2002

Summary: P, who did not declare, did not pay the taxes calculated for 1991, 1992, 1993 and 1994 and petitioned for its recalculation. With this, he signed a 'Plea Agreement' in which he agreed to file overdue 'Federal income tax returns' and report his income.

Despite signing the agreement, he underreported. The IRS commissioner then served P's 'fraudulent filing' and 'tax additional amount'.

P requested the dismissal of the IRS commissioner for being 'incompetent' in this matter.

25 26 USC 7623: Expenses of detection of underpayments and fraud, etc.
26 18 USC 371: Conspiracy to commit offense or to defraud United States.
27 18 USC 3571: Sentence of fine.

Relevant Articles: 26 USC 6651(f) -6654(a) -6665(b)(1)

Result: It was decided that defendant; submits Form 1040; declare his income of in 1991: $328,915, in 1992: $176,376, in 1993: $222,472, and in 1994: $251,839; pay taxes of, in 1991: $95,778, in 1992: $48,262, in 1993: $72,760, and in 1994: $84,247,

In addition, penalties of $77,308 in 1991, $38,302 in 1992, $57,619 in 1993, and $67,557 in 1994 were added due to missing taxes and fraudulent filing. His request to dismiss the IRS commissioner was denied.

CONCLUSION AND RECOMMENDATIONS

In the USA, which is one of the tax haven countries, and in Delaware, which is one of the states that are claimed to be the easiest to avoid taxes, front companies can be established without the need for much action. In addition, as can be seen from the case files, it is not necessary to have a command of the law, to be exhausted with detailed procedures and to seek consultancy services in order to avoid taxes. Because even people who have not received accounting or tax education, do their tax transactions and the declarations they need to fill directly without using an intermediary.

For these reasons, tax courts do not take too many cases, since there are not many tax transactions in Delaware. In fact, in some cases, the district court directly referred to the tax evasion cases, which it noticed/suspected, directly to the tax court.

In this study, it is aimed to examine the tax evasion crimes in the state of Delaware committed by downloading it from the Casetext legal site. Only the cases that were concluded between the years 2000-2022, which were examined through the decisions of the judges, were handled and 16 files were reached.

In general, the following were found in the files:

- Some cases have occurred after the plaintiffs applied to the district court for various reasons (eg workplace injury in the first case), when the judge suspected tax evasion and took the case to the tax court.
- Not every tax evasion has resulted in jail time.
- Financial advisor assistance was not received in the majority of cases. Even those who did not receive training filled out their own declarations and took many legal actions.
- In most cases, the IRS staff/commissioner has been the defendant. Plaintiffs claim that the IRS staff did not properly calculate the tax.
- In many cases, plaintiffs were found wrong.
- Again in many cases, plaintiffs have confessed to tax evasion.

- In most cases, a tax penalty is imposed under 26 USC 6651, 6654, and 6663.

Considering these determinations, it is thought that the most basic precaution to be taken is that a few changes in the Delaware Laws or some emphasis on the law should be made.

In other words,

- Making the laws a little more detailed/complex: It is seen that tax procedures are done by uneducated people because they are easy and complete quickly, and people do not need financial advisor support.
- Increasing legal sanctions: It is observed that the rate of committing crimes has increased as most cases do not result in prison sentences.
- Implementation of applied higher education requirement: It is necessary to prevent tax procedures from being carried out by uneducated people.

While these recommendations will not completely end the act of tax evasion, they will greatly reduce it. Tax haven countries urgently need to find solutions to tax evasion. Otherwise, professions such as financial advisor and tax inspector will not be appreciated enough.

REFERENCES

Ala, O. (2016). Vergi uyuşmazlıklarının çözüm yolları, yargısal çözüm yolunun edirne vergi mahkemesi örneğinde değerlendirilmesi, *Master Thesis*, Trakya University Social Sciences Institute, Department of Public Administration, Edirne, 198 pages.

Bilgin, H. (2015). İptal ve tam yargı dava dosyaları üzerinde alan çalışması: Denizli örneği, *PhD Thesis*, Selçuk University Social Sciences Institute, Department of Public Law, Konya, 1646 pages.

Casetext Law Site, <https://casetext.com/v2/>, last access date: 16.01.2023.

Çavdar, F. (2019). Türkiye ve Amerika Birleşik Devletleri'ndeki vergi denetimi uygulamalarının karşılaştırılması. *Trakya University Social Sciences Journal,* 21, 127-140.

Doğan, D. & Ünal Uyar, G. F. (2020). Adli muhasebe çerçevesinde vergi kaçakçılığı suçunun örnek olay çalışması ile incelenmesi. *The World of Accounting Science,* 22 (1), 75-106.

İrteş Gülşen, M. (2018). Vergi uyuşmazlıklarında yargısal çözüm yollarının çeşitli göstergeler ile analizi: İstanbul vergi mahkemeleri örneği. *Erciyes University Faculty of Economics and Administrative Sciences Journal*, 52, 241-258.

New York Times (NYT), How Delaware thrives as a corporate tax haven, 30.06.2012, <https://www.nytimes.com/2012/07/01/business/how-delaware-thrives-as-a-corporate-tax-haven.html>, last access date: 17.01.2023.