



DEPARTMENT OF THE ATTORNEY GENERAL

News Release

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CRACKDOWN ON TAX CRIMES CONTINUES

HONOLULU-Attorney General Mark Bennett announced today that: On December 22, 2003, First Circuit Court Judge Michael A. Town granted motions by Waianae residents Charles I. Reinhardt, 52, and Linda L. Reinhardt, 48, to defer their guilty pleas to four counts of attempting to evade or defeat a tax and placed them on probation for five years. As special conditions of probation, each was ordered to make restitution to the State of Hawaii in the amount of the tax that they evaded during calendar years 1998, 1999, 2000 and 2001. They were also each required to pay \$1,500.00 into the State General Fund and perform 100 hours of community service. If they do everything required of them, at the end of five years, the charges will be dismissed and Mr. and Mrs. Reinhardt will not have a permanent criminal record.

Investigation by the State Department of Taxation revealed that Mr. and Mrs. Reinhardt accepted frivolous advice from another individual and filed state income tax returns for 1998 through 2001 that took the fraudulent position that wages were not subject to taxation.

On December 9, 2003, First Circuit Court Judge Karl K. Sakamoto granted a motion by Mililani resident James M. Dysarz, 49, to defer his no contest plea to one count of theft in the second degree and placed Dysarz on five years probation for that offense. Dysarz, as conditions of his probation, was ordered to pay restitution of \$19,136.25 to the State of Hawaii. Judge Sakamoto ordered that Dysarz pay \$8,000 of that amount by December 31, 2003 with the remainder to be paid in monthly installments of at least \$250.00 per month. Dysarz was also ordered to perform 100 hours of community service and to undergo a substance abuse assessment and treatment if warranted.

Investigation by the State Department of Taxation revealed that in 2003 Dysarz fraudulently obtained a 2002 State Tax Refund in the amount of \$19,136.25 by fraudulently overstating the amount of his state tax withholding credit on his 2002 individual income tax return.

On December 2, 2003, the Oahu grand jury returned a 20 count indictment against Waianae resident Marks M. Kahikina, Jr., 62, charging him with ten counts of attempt to evade or defeat tax, eight counts of aiding and abetting the filing of fraudulent state income tax returns, one count of filing a fraudulent state income tax return, and one count of attempted theft in the second degree.

The indictment alleges that Mr. Kahikina assisted other taxpayers in evading their income tax

obligations for tax years 1998, 1999, 2000 and 2001 by assisting in the preparation of fraudulent returns that reported that they were entitled to a refund of all of their state withholding taxes. The indictment also charges Mr. Kahikina with tax evasion on his own behalf for calendar years 2000 and 2001. According to the indictment, Mr. Kahikina had gross income of \$39,680 in 2000 and evaded his tax obligation by filing a fraudulent state income tax return and by maintaining with his employer, Oahu Transit Services, Inc., a false and fraudulent employee's withholding allowance certificate (HW-4) that fraudulently reported that he was entitled to 99 withholding allowances. The indictment charges him with a similar scheme to evade his tax obligation on \$43,365.00 in gross income for 2001.

An indictment is an accusation only. Mr. Kahikina is presumed innocent until proven guilty at trial.

On November 26, 2002, Honolulu resident Gilbert Tung, 26, pled no contest to one count of attempt to evade or defeat a tax. Investigation by the Department of Taxation revealed that Gilbert Tung filed a false tax return for calendar year 2001 taking the frivolous position that wages were not subject to taxation in the State of Hawaii. First Circuit Court Judge Michael A. Town set sentencing for February 17, 2004.

On November 25, 2003, First Circuit Court Judge Derrick H. M. Chan granted a motion by Honolulu business executive Frederick H. Overstreet, 74, to defer his no contest pleas to three counts of willfully failing to file general excise tax returns for calendar years 1999, 2000 and 2001. Mr. Overstreet, as a condition of his deferral, was required to file his tax returns and make an immediate payment to the State General Fund in the amount of \$7,500.00. Investigation by the State Department of Taxation revealed that Mr. Overstreet willfully failed to file general excise tax returns for taxes due on real estate commissions.

On November 25, 2003, First Circuit Court Judge Derrick H.M. Chan granted a motion by Honolulu business executive Daniel P. Doyle, 46, to defer his no contest pleas to five counts of willfully failing to file his general excise tax returns for calendar years, 1996, 1997, 1998, 1999 and 2000. Mr. Doyle, as a condition of his deferral, was required to file his tax returns and make an immediate payment to the State General Fund in the amount of \$15,000.00. Investigation by the Department of Taxation revealed that Mr. Doyle willfully failed to file general excise tax returns for taxes due on real estate commissions.

On November 18, 2003, Kauai Freight Service, Inc., a Hawaii corporation, pled no contest to one count of theft in the first degree and one count of attempt to evade or defeat a tax. Corporation President Stephen C. Girald, 57, also pled no contest to one count of theft in the first degree. Corporation Vice President Ashlet S. M. Girald pled no contest to one count of attempt to evade or defeat a tax.

Investigation by the State Department of Taxation revealed that Kauai Freight Service, Inc. was not paying over to the Department of Taxation withholding taxes withheld from employees and that Vice President Ashlet S. M. Girald was attempting to evade or defeat state taxes by making false entries in business records. Fifth Circuit Court Judge Clifford L. Nakea set sentencing for January 29, 2004.

On November 12, 2003, Honolulu residents Alvin H. Tung, 54, and his wife Betty S. Tung, 53, each pled no contest to one count of attempt to evade or defeat a tax and one count of filing fraudulent state income tax returns. Investigation revealed that Mr. and Mrs. Tung followed the frivolous advice of a tax return preparer that wages are not subject to taxation in the State of Hawaii and filed frivolous state income tax returns for calendar years 2000 and 2001, fraudulently asserting that they were entitled to a refund of all of their state withholding taxes for those years. First Circuit Court Judge Michael A. Town set sentencing for February 9, 2004.

When the State Department of Taxation or the Internal Revenue Service informs a taxpayer that a filed tax return is frivolous the taxpayer should be aware that the filing of such a return is more often than not also a criminal offense that subjects the filer to possibly severe criminal penalties.

Do not ignore warnings from tax officials that a return is frivolous. Immediate corrective action can save a taxpayer from a knock on the door by a criminal investigator who is carrying with him a warrant of arrest and a pair of handcuffs.

The Criminal Justice Division of the Department of the Attorney General has a zero tolerance policy regarding tax crimes. The wise course of action is to resolve problems with the State Department of Taxation before the matter is referred to the Criminal Justice Division for criminal prosecution.

Theft in the first degree is a class "B" felony punishable by up to ten years in prison and by a fine of up to \$25,000 or twice the pecuniary gain from the crime, whichever is greater.

Attempting to evade or defeat a tax is a class "C" felony punishable by up to five years in prison and by a fine of up to \$100,000 for each offense.

Theft in the second degree is a class "C" felony punishable by up to five years in prison and by a fine of up to \$10,000 or twice the pecuniary gain from the crime, whichever is greater.

Filing a false or fraudulent state tax return is a class "C" felony punishable by up to three years in prison and by a fine of up to \$100,000 for each offense.

Willfully failing to file an annual general excise tax return is a misdemeanor punishable by up to one year in jail and by a fine of up to \$25,000 for each offense.

Anyone having information concerning tax crimes should call criminal investigators at 587-1795.

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