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U.S. DISTRICT COURT
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IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES Plaintiff, v. HARRY F. ANDERSON, individually and dba TAX TOOLS, Defendant.	)))))))))))	Civil No. 4:03CV495 Judge Schell

Complaint

Plaintiff United States of America, for its complaint against defendant Harry F. Anderson, individually and doing business as Tax Tools, states as follows:

Jurisdiction and Venue

1. Jurisdiction is conferred on this Court by 28 U.S.C.§§ 1340 and 1345 and 26 U.S.C. §§ 7402(a), 7407, and 7408.

2. This suit is brought under 26 U.S.C. §§ 7402 and 7408 to restrain and enjoin Anderson from:

a. Engaging in activity subject to penalty under 26 U.S.C. § 6700, including organizing or selling a plan or arrangement and making a statement regarding the excludibility of income or any other tax benefit by participating in the plan that he knows or has reason to know is false or fraudulent as to any material matter;

b. Advocating, through the Tax Toolbox, websites, seminars, and other promotional materials, the false and frivolous position that federal income taxes can be legally reduced or eliminated by creating home-based businesses which lack any profit objective and whose sole purpose is to evade taxes;

c. Making false statements about the allowability of any deductions or credits; and

d. Engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws through the promotion of a false tax scheme.

4. This action has been requested by the Acting Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General under 26 U.S.C. §§ 7402, 7407, and 7408.

5. Anderson resides at 3101 Oak Hollow Drive, Plano, Texas 75093-6349, within this judicial district.

6. Anderson, a sales consultant of Tax Toolbox, Inc., conducts business through Tax Tools, located at 3101 Oak Hollow Drive, Plano Texas 75093-6349, within this judicial district.

7. Anderson promotes the Tax Toolbox scheme at seminars in the Dallas-Fort Worth area and nationwide through a website located at www.nbataxtools.com.

8. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1396.

Anderson's Home-Based-Business Tax Scheme

9. Anderson promotes and markets the Tax Toolbox, a collection of tapes, pamphlets, workbooks, a CD-Rom and record-keeping aids that is sold over the Internet at www.taxtoolbox.com, www.mytaxman.net, www.nbataxtools.com, other websites, and at promotional seminars nationwide.

10. The Tax Toolbox is a sham home-based business package that falsely promises customers they can legally reduce or eliminate federal income taxes merely by setting up a home-based business, regardless of whether the business is real or is intended to show a profit.

11. Between June 2001 and April 2003, Anderson sold an estimated 81 Tax Toolboxes. Anderson receives $200 for each Tax Toolbox sold and $140 for each customer renewal.

12. Anderson markets the Tax Toolbox nationwide through his website. The Anderson customers the IRS has identified so far are located in Texas, Oklahoma, and Missouri.

13. In promoting this scheme, Anderson falsely asserts that if there is some type of business in a taxpayer's house, non-deductible personal expenses, including college education, weddings, children's allowances, all medical expenses, vacations and commuting, can be automatically converted to legitimately deductible business expenses.

14. As part of this promotion, Anderson sells Tax Toolbox audiotapes that falsely claim that "a business of your own is a magic wand that can make your taxes disappear by allowing you to legally deduct more of what you're already spending on those things like travel, meals, golf, cars, medical expenses, kids' allowances, everyday household expenses, and much, much more."

15. In promotional materials and in the Tax Toolbox purchased by customers, Anderson fails to inform his customers that in order to claim deductions for home-based business expenses, the expenses must be reasonable and necessarily related to the business and to the production of income. Anderson also does not inform his customers that to claim income tax deductions for a home-based business, the business must be created with an actual and honest objective of making a profit.

16. In promotional materials and in the Tax Toolbox purchased by customers, Anderson falsely guarantees that by using the Tax Toolbox, customers will increase their federal income tax refund or reduce their federal income taxes owed by at least $958 a year.

17. As part of this promotion, Anderson claims to be a tax expert and to have spent years studying the Internal Revenue Code.

18. Based on his professed expert knowledge of the internal revenue laws, Anderson knows or should know that courts have repeatedly and recently held that deductions for personal-consumption expenditures are not allowed when taxpayers create home-based businesses purely for tax-avoidance purposes and without an actual and honest objective of making a profit.

19. Based on his professed expert knowledge of the internal revenue laws, Anderson knows or should know of a recent IRS warning labeling the "home-based business tax avoidance schemes" one of the IRS's "Dirty Dozen" tax schemes.

20. Based on his professed expert knowledge of the internal revenue laws, Anderson knows or should know that in *United States v. Gleason,* No. 3-03-0311 (M.D.Tenn. April 10, 2003), the Department of Justice moved on November 5, 2003 to preliminary enjoin Daniel Gleason, the president and CEO of Tax Toolbox, Inc., and his sales consultants, including Anderson, from promoting this abusive tax scheme.

Harm to the Government

21. Based on Anderson's representation that he sold an estimated 81 Tax Toolboxes between June 2001 and April 2003, and his guarantee that customers will receive at least a $958 refund per year, the IRS conservatively estimates that the potential harm caused by Anderson's sham home-based-business tax-avoidance scheme is at least $77,598. This figure will increase if Anderson continues to promote the Tax Toolbox. In addition, this figure does not include the damage caused by customers who receive more than the promised minimal refund of $958.

22. Because Anderson refuses to stop selling the Tax Toolbox, the IRS will have to devote substantial resources to auditing Anderson's customers. Thus, the government's damages will increase exponentially if Anderson is not immediately enjoined.

23. Anderson continues to promote this false and fraudulent scheme, even after the IRS informed him that his promotion asserts false and misleading statements about material matters under the internal revenue laws.

Injunction under 26 U.S.C. § 7408 for Violation of 26 U.S.C. § 6700

24. The United States incorporates by reference the allegations in paragraphs 1 through 23.

25. 26 U.S.C. § 7408 authorizes a court to enjoin persons who have engaged in any conduct subject to penalty under 26 U.S.C. § 6700 if the court finds that injunctive relief is appropriate to prevent the recurrence of such conduct.

26. 26 U.S.C. § 6700 penalizes any person who organizes or sells a plan or arrangement and makes, in connection with organizing or selling the plan or arrangement, a statement regarding the excludibility of income or securing of other tax benefit that the person knows or has reason to know is false or fraudulent as to any material matter.

27. Anderson sells an abusive tax scheme. In selling this abusive tax scheme, Anderson makes false or fraudulent statements regarding the deduction of expenses for home-based businesses. Anderson knows or has reason to know that his programs and program materials contain false or fraudulent statements within the meaning of 26 U.S.C. § 6700.

28. If he is not enjoined, Anderson is likely to continue to organize and sell his sham home-based business tax scheme.

WHEREFORE, plaintiff, the United States of America, respectfully prays for the following:

A. That the Court find that Anderson has engaged in conduct subject to penalty under 26 U.S.C. § 6700, and that injunctive relief under 26 U.S.C. § 7408 is appropriate to prevent a recurrence of that conduct;

B. That this Court, under 26 U.S.C. §§ 7402 and 7408, enter a permanent injunction prohibiting Anderson, individually and doing business as Tax Tools, or through any other name or entity, and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him, from directly or indirectly:

a. Engaging in activity subject to penalty under 26 U.S.C. § 6700, including organizing or selling a plan or arrangement and making a statement regarding the excludibility of income or any other tax benefit by participating in the plan that he knows or has reason to know is false or fraudulent as to any material matter;

b. Advocating, through the Tax Toolbox, his website, seminars, or other promotional materials, the false and frivolous position that federal income taxes can be legally reduced or eliminated by creating home-based businesses which lack any profit objective and whose sole purpose is to evade taxes;

c. Making false statements about the allowability of any deductions or credits; and

d. Engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws through the promotion of a false tax scheme.

C. That this Court, under 26 U.S.C. §§ 7402 enter an injunction requiring Anderson to contact by mail (and also by e-mail, if an address is known) all individuals who have purchased his abusive tax plan and inform those individuals of the Court's findings concerning the falsity of Anderson's prior representations and attach a copy of the permanent injunction against Anderson and his associates and related entities;

D. That this Court, under 26 U.S.C. §§ 7402 enter an injunction requiring Anderson to produce to the United States any records in his possession or to which he has access, identifying the persons who have purchased his abusive tax plan, arrangement, or program (purchased either directly from him or from his associates or related entities);

E. That this Court, under 26 U.S.C. §§ 7402 enter an injunction requiring Anderson and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him, to remove from his website all abusive tax scheme promotional materials and false commercial speech, to display prominently on the first page of his website a complete copy of the Court's permanent injunction, and to maintain the website for one year with a complete copy of the Court's permanent injunction so displayed throughout that time;

F. That this Court order that the United States is permitted to engage in post-judgment discovery to ensure compliance with the permanent injunction; and

G. That this Court grant the United States such other relief, including costs, as is just and equitable.

MATTHEW D. ORWIG
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