UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | |
|---|---|
| UNITED STATES OF AMERICA<br><br>v.<br><br>JOSEPH CLAY,<br><br>Defendant. | **INFORMATION**<br><br>26 Cr. |

**COUNT ONE**
**(Aiding and Assisting Preparation of a False and Fraudulent U.S. Individual Income Tax Return)**

The United States Attorney charges:

**Background**

1. At all times relevant to this Information, JOSEPH CLAY, the defendant, was in the business of preparing U.S. Individual Income Tax Returns, Forms 1040 ("Federal Individual Tax Returns" or "Forms 1040"), for individuals (the "Clients") in exchange for fees. CLAY carried out his tax preparation business principally through, for 2018 and 2019, Premier Tax and Professional Services LLC and, for 2020 through 2024, Prime Tax & Professional Services LLC, tax preparation businesses that he operated.

2. From in or about tax year 2018 through in or about tax year 2023, JOSEPH CLAY, the defendant, prepared and caused to be filed, in total, over 3,500 tax returns with the Internal Revenue Service ("IRS").

**Background on the Internal Revenue Service**

3. At all times relevant to this Information:

a. The IRS was an agency of the United States Department of the Treasury responsible for administering the tax laws of the United States and collecting taxes owed to the United States.

b. Pursuant to the Internal Revenue Code and attendant regulations, individual taxpayers generally were required to truthfully report their full income, tax liabilities, and, where appropriate, any claim for a refund on a Form 1040, annually. Forms 1040 had to be filed with the IRS, which is part of the United States Department of the Treasury.

c. A Schedule A (Form 1040), Itemized Deductions ("Schedule A"), was an IRS form that was attached to a Form 1040 when applicable and must be used by taxpayers to claim permissible deductions from taxable income. A taxpayer had the option to apply a standard deduction to his or her tax returns, or to apply the figure calculated on the Schedule A as the taxpayer's itemized deductions. Deductions to be claimed on Schedule A include, among other things, gifts to charity and job-related and other miscellaneous expenses, such as unreimbursed employee expenses.

d. A Schedule C (Form 1040), Profit or Loss from Business (Sole Proprietorship) ("Schedule C"), was an IRS form that was attached to a Form 1040 when applicable and must be used to report the gross receipts, expenses, and profit or loss from a business operated or a profession practiced as a sole proprietor. An activity qualified as a business if the taxpayer's primary purpose for engaging in the activity was for income or profit and the taxpayer was involved in the activity with continuity and regularity.

## The Tax Preparation Fraud

4. JOSEPH CLAY, the defendant, regularly prepared and caused to be filed with the IRS Federal Individual Tax Returns and accompanying forms and schedules for the Clients that CLAY knew to be false and fraudulent in that they contained:

a. various inflated and fictitious deductions, including but not limited to: itemized deductions, such as charitable contributions that had not been made; business expense deductions for businesses the Clients did not operate or which were otherwise inflated or invented; and individual retirement account deductions that were inflated or invented; and/or

b. fraudulent claims for residential energy credits based upon fraudulently invented qualifying expenses for fictitious home improvements purportedly made by the Clients.

5. These false items were reported on Schedules A and C, as well as other Form 1040 tax forms.

6. From in or about tax year 2018 through in or about tax year 2023, the inclusion by JOSEPH CLAY, the defendant, of the aforementioned fabricated and inflated items on the Clients' Federal Individual Tax Returns resulted in the fraudulent reduction of the Clients' tax liabilities, the receipt by the Clients of IRS refunds to which the Clients were not lawfully entitled, and a total tax loss to the IRS of more than $5 million.

## Statutory Allegations

7. In or about March 2019, in the Southern District of New York and elsewhere, JOSEPH CLAY, the defendant, willfully and knowingly aided and assisted in, and procured, counseled, and advised the preparation and presentation under, and in connection with a matter arising under, the internal revenue laws, of a return, affidavit, claim, and other document, to wit, CLAY, the defendant, prepared a United States Individual Income Tax Return (Form 1040 and

accompanying forms and schedules) for taxpayer A.M., for tax year 2018, which return was submitted to the Internal Revenue Service ("IRS") on or about March 19, 2019, and which return was false and fraudulent as to material matters resulting in a tax loss to the IRS of approximately $9,459, in that, among other things, the return fraudulently overstated Schedule A tax deductions and Schedule C business expenses, and falsely claimed residential energy credits.

(Title 26, United States Code, Section 7206(2).)



JAMES M. MCDONALD
United States Attorney