Brager Tax Law Group

Tax Controversy Law

Summer 2024 E-Newsletter

Hello Summer

This has been the hottest summer that I have personally experienced in Southern California, and many folks may still be on summer vacation, but the Treasury Department never takes a break.

So in the spirit of the Summer Olympics, let's dive into a refreshing pool of updates from the IRS.

The IRS continues to intensify it's pursuit of high-income tax earners, including athletes, read more about this from our editor on page 3. The marathon of Employment Retention Credits (ERC) is on-going. On page 2, my article sheds light on the IRS' recent announcement detailing the 'Five New Signs of Incorrect ERC Claims Under IR-2024-198'.

There has been a surge in activity at the IRS around *Crypto Currency*. I invite you to turn your attention to page 3 where I briefly address the IRS' latest enforcement measures on this contentious issue.

Team USA is going for gold, and so are we! I am excited to share that '*team Brager Tax Law Group'* is expanding so we can continue to deliver a winning performance for all our clients. Please join me in welcoming four new team members. Meet Jennifer Azhadi, our new Accounting Manager, on page 4. We also have two new law clerks who joined us this summer, Nate Wiggins and Joon Bae, who are both sprinting towards the finish line of their law school graduations. Additionally, our intake team has a new member; clients will be greeted by Joy Wood, whose telephone manner is truly a '*joy*'.

Our marketing team continues to give away Starbucks gift cards, so send in your answers to enjoy one of their new chilled summer concoctions on us.

One of our tax litigation attorneys, Meredith Vincent, will join me in presenting a webinar on Compliance with the Corporate Transparency Act (CTFA). Read more on page 4.

That's all for now friends. Stay cool, and we will connect again in our fall newsletter.

Cheryl R. Frank

IN THIS ISSUE

2 STARBUCKS GIFTCARDS UP FOR GRABS!

Congratulations go out to Ms. Florence Fong who was the only entrant to win our Starbucks contest from our previous Spring edition, from a total of 3 gift cards available. So, we still have two Starbucks gifts cards each worth $50 up for grabs. Grab a Starbucks dragon fruit cold mix or a yummy iced caramel latte, those sassy barristers embrace all seasons even during a heatwave.

Answer these two simple questions related to our Summer Newsletter, and send your reply to aferreira@bragertaxlaw.com **by August 15th, 2024.**

1. Which Olympian is Featured on Page 3?
2. Name three of our Tax Litigation Attorneys (hint: check out our website).

Both questions must be answered to be eligible to enter the competition. The first 2 correct answers received will be notified by email by August 30th, and will also be announced in our Fall Newsletter issue!

Terms & Conditions:
- *Gift cards are not exchangeable for cash.*
- *Brager Tax Law Group staff and their immediate families are not eligible to participate in this contest.*

IRS Announces Five New Signs of Incorrect ERC Claims Under IR-2024-198

By Cheryl Frank

The IRS has recently issued five new warning signs regarding incorrect Employee Retention Credit (ERC) claims by businesses. These indicators stem from common issues the IRS has observed while analyzing and processing ERC claims. The new items complement the seven issues previously highlighted by the IRS. Consequently, businesses with pending claims should meticulously review their filings to confirm eligibility, validity, and ensure they do not include any of the warning signs.

Businesses encountering these issues should consult a trusted advisor and consider utilizing the special ERC withdrawal program that remains available, or the newly discussed voluntary disclosure program. Those contemplating applying for the credit should also exercise caution before submitting a claim.

Businesses with previously approved claims should reexamine their filings as additional audits are forthcoming. Correcting incorrect claims now can help avoid future issues such as audits, repayments, and accrued penalties and interest.

In the coming days, the IRS is expected to release more information on new compliance initiatives targeting high-risk ERC claims. Additionally, there is anticipation for a short-term reopening of the voluntary disclosure program and an important update regarding the impending processing of low-risk payments to support smaller businesses. This follows the prior announcement last month that the IRS was denying more of the highest-risk ERC claims.

The IRS aims to make businesses aware of common errors they are now observing, many of which reflect erroneous advice from promoters who sold these programs. The IRS strongly advises consulting a trusted tax professional rather than a promoter to identify if any of these red flags apply. Many businesses were lured into mistakenly claiming these credits by aggressive promoters and are not eligible. The IRS is currently denying tens of thousands of ERC claims that appear erroneous and scrutinizing hundreds of thousands more that show signs of inaccuracy, while also beginning additional processing of low-risk claims.

The IRS reminds everyone that they may receive payments for some valid tax periods or quarters while the IRS reviews other periods for eligibility. Eligibility can vary from one tax period to another. Common situations include the expiration of government orders or an increase in a business's gross receipts in subsequent periods. Alternatively, qualified wages may vary due to a forgiven PPP loan or because an employer already claimed the maximum amount of qualified wages in an earlier period.

The IRS urges taxpayers to work with a trusted tax professional or lawyer who understands the complex ERC rules to recheck claims and discuss next steps. This is especially important for those who used promoters to file claims instead of their CPA or attorney.

The newly announced signs of incorrect ERC claims identified by the IRS are:

1. Essential businesses during the pandemic could fully operate and didn't have declining gross receipts. Modifications such as requiring employees to wash hands or wear a mask do not mean the business operations were suspended.

2. Businesses unable to show how a government order fully or partially suspended business operations. This is a fact-specific situation, and many companies have provided adequate documentation with exhibits supporting these issues.

3. Businesses reporting family member wages as qualified wages. These claims are likely incorrect as wages paid to related individuals are not qualified wages for the ERC.

4. Businesses using wages already used for PPP loan forgiveness. If the SBA forgave the loans, the business cannot claim the ERC on wages reported as payroll costs for PPP loan forgiveness. Participating in the PPP impacts the amount of qualified wages used to calculate the ERC.

5. Special rules for large eligible employers. These rules apply to employers averaging more than 100 full-time employees in 2019 (for 2020 tax periods) or more than 500 full-time employees in 2019 (for 2021 tax periods). Large eligible employers can only claim wages paid to employees not providing services. Many claims incorrectly included wages for employees who were providing services during this period.

Prior signs of incorrect ERC claims include:

1. Claiming too many quarters. Employers must review eligibility for each specific quarter.

2. Non-qualifying government orders. Government orders must have fully or partially suspended operations due to the COVID-19 pandemic. Recommendations or guidance do not qualify.

3. Incorrect employee and wage calculations. Employers need to ensure accurate wage calculations, considering changing laws and credit amounts in 2020 and 2021.

4. Citing supply chain issues. Qualifying based solely on supply chain disruptions is uncommon unless the supplier's government order meets specific requirements.

5. Claiming ERC for too much of the tax period. Employers can only claim ERC for wages paid during the suspension period, not the entire quarter.

6. Businesses not paying wages or existing during the eligibility period.

7. Unscrupulous promoters. Promoters may have encouraged incorrect claims without considering repayment requirements, penalties, and other issues.

As the IRS intensifies scrutiny, it will be interesting to see how they address promoters and taxpayers involved in these incorrect claims.

Call one of our tax litigation specialists and former IRS attorneys for a **complimentary phone consultation** if you are experiencing any ERC or other tax controversy issues at **310-208-6200** or for more information visit: **www.bragertaxlaw.com.**

Latest on Crypto Currency Enforcement at the IRS
By Cheryl Frank

A Surge in IRS Activity
The IRS has ramped up its focus on cryptocurrency, making it a priority area for enforcement. Numerous audits are underway, and taxpayers are increasingly seeking guidance on their crypto-related tax filings. Given the complexity and variability of taxpayer records, this has become a significant challenge. Even large, sophisticated CPA firms often lack the necessary expertise in this relatively new domain, leading to a number of problematic tax filings, albeit unintentional.

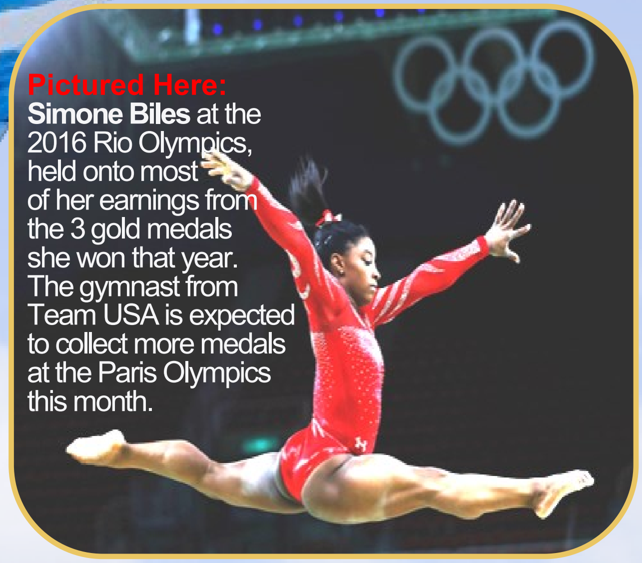
Recent Developments
Last week, the IRS made several key announcements that signal a robust approach to crypto enforcement. Notably, the agency is heavily investing in blockchain analysis tools for its employees. Additionally, new forms, such as the 1099-DA, will be introduced to better capture crypto transactions, which are expected to increase audit risks or flags on tax returns.

Enforcement and Audit Expansion
On the enforcement front, the IRS Criminal Investigation Division (CID) currently has 390 active cases, with many more civil cases pending. The agency has issued over 600 licenses for blockchain analysis tools and is undergoing extensive training to equip its employees with the necessary skills. The IRS latest strategic plan is focused on targeting crypto-related cases, and the new tax disclosure forms will aid in identifying discrepancies on tax filings.

The Scope of Underreporting
The IRS estimates there are 12.6 million underreported crypto transactions, though the actual number is likely higher due to the complexities involved. This underreporting is compounded by mainstream CPA firms not fully addressing the nuances of crypto transactions in their clients' tax filings.

As the IRS continues to enhance its capabilities and expand its audits, taxpayers involved in cryptocurrency transactions must ensure their filings are accurate and compliant to avoid potential legal issues.

The IRS's '*Victory Tax*' was Replaced by the USA Appreciation for Olympians & Paralympians Act of 2016, *but is All that Glitters, Gold?*
By the Editor.



Pictured Here: **Simone Biles** at the 2016 Rio Olympics, held onto most of her earnings from the 3 gold medals she won that year. The gymnast from Team USA is expected to collect more medals at the Paris Olympics this month.

In 2016, the United States Appreciation for Olympians and Paralympians Act was enacted to amend the 1986 Internal Revenue Code, also known as the "Victory Tax." This 8-year-old legislation exempts Olympians and Paralympians from paying taxes on prizes and awards won during the Olympic and Paralympic Games, provided these earnings are below a specified threshold.

In our Spring Edition newsletter, Cheryl Frank highlighted a recent IRS initiative targeting wealthy individuals across various fields, including the sports industry. Successful athletes, often benefiting from substantial sponsorship deals, have now come under increased scrutiny.

Furthermore, foreign athletes participating in athletic events held in the United States **are subject to specific tax and withholding rules by the IRS.** As the Paris Summer Olympics commences, some of this year's prominent athletes might face closer examination by the IRS.

If you or your clients are in this group of income earners, we recommend seeking the advice from one of our former IRS tax attorneys before attempting a triple backflip on prize money or talent endorsements, and call Brager Tax Law Group for a **complimentary consultation at: 310-208-6200** or visit **www.bragertaxlaw.com**.

Have You Met Jennifer Azhadi?

We are delighted to introduce one of our newest Brager Tax Law Group team members. Having grown up in sunny Southern California, Jennifer recently made the exciting move to beautiful and much cooler Northwest Montana. She holds a BS degree from California State University San Marcos (CSUSM).

With over 20 years of experience in accounting, Jennifer has recently launched her own accounting consulting firm, specializing in services for law firms. Her extensive expertise will be a valuable asset to our team. As our new Accounting Manager, Jennifer will ensure that our billing operations continue to run smoothly, enabling us to better serve our clients.

In her free time, Jennifer loves to explore the great outdoors and enjoys all that Northwest Montana has to offer.

10 Complimentary Tickets for Strafford Publications Webinar on CTFA for CLE Credits

Cheryl Frank and **Meredith Vincent** will be presenting an informative webinar on **Compliance with the Corporate Transparency Act (CTFA): Reporting Beneficial Ownership, Filing Obligations, and Exceptions** on **Tuesday, September 24th, 2024 at 10am PST (1pm EST)**.

We have **10 complimentary tickets** on a first-come-first-served basis available. Strafford Publications will be posting information about this upcoming webinar onto their website within the next few weeks. We will also be emailing out announcements soon so check your inbox.

In the meantime, please submit your contact information including the name of your company, to our Director of Communications, Ana-Paula Ferreira at: aferreira@bragertaxlaw.com **before August 31st, 2024.**

10 Fun Facts & Quotes about the IRS and Taxes

Did you know that the oil that professional bodybuilders use to make their skin shiny at contests can be considered a tax deduction?

1. The IRS is the largest accounting and tax-collecting organization in the world.
2. Albert Einstein said, “the hardest thing to understand in the world is income taxes”.
3. An actual IRS tax form states: *‘Income from illegal activities, such as money from dealing illegal drugs, must be included in your income on Form 1040, line 21’.*
4. The IRS considers found property that doesn’t belong to you, such as a “treasure trove,” taxable to you in the first year that is in your possession.
5. Will Rogers once said, "The income tax has made liars out of more Americans than golf."
6. In New Mexico, people over the age of 100 are tax-exempt but the average life span in that state is 75.
7. The IRS taxes stolen property. The 1040 instructions say that you should report it as stolen property.
8. Professional bodybuilders can deduct the body oil they use at contests to make their muscles shine but not their food supplements.
9. A 2012 study published in the Journal of the American Medical Association revealed that fatalities from car accidents spike by 6% on tax deadline day — April 15th!
10. The U.S. Tax Code is nearly 4 million words long.