Current Federal Tax Developments

Week of February 15, 2021

Edward K. Zollars, CPA
(Licensed in Arizona)

ACCOUNTING
CONTINUING EDUCATION

KAPLAN

CURRENT FEDERAL TAX DEVELOPMENTS
WEEK OF FEBRUARY 15, 2021
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Current Federal Tax Developments

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SECTION: FBAR REPORTING
WILLFUL FAILURE TO FILE FBAR PENALTIES WERE NOT EXCESSIVE

Citation: United States v. Collins, USDC WD PA, Case No. 2:18-cv-01069, 2/8/21

Another taxpayer had a bad experience with his failure to properly report all of his foreign accounts on his annual FBAR filing in the case of *United States v. Collins*.[1] The Court found no issue with the IRS's assessment of penalties on the willful failure to file reports on these accounts for 2007 and 2008, despite the taxpayer's attempt to argue that he had acted reasonably in failing to report these accounts and the amounts of the penalty were excessive.

Penalties the IRS Sought to Impose

The IRS was proposing civil penalties of $154,032 for 2007 and the same amount for 2008 for willful failure to report these accounts on the FBAR filings for the years in question. The IRS did not impose the maximum penalties (50% of the highest balance for each year) nor even an amount as high as their internal mitigation document suggested Mr. Collins would qualify for. As the opinion notes:

> 20. Under this internal mitigation guidance, the IRS would have assessed civil FBAR penalties against Mr. Collins of: (a) $382,666 for his willful failure to report his foreign accounts on an FBAR for 2007; and (b) $233,462 for his willful failure to report his foreign accounts on an FBAR for 2008. (Pl.'s Ex. P42; Trial Tr. at 49:15–50:12.)
>
> 21. Notwithstanding the foregoing, the IRS further reduced the mitigated penalties after considering the facts and circumstances of Mr. Collins's case. (Pl.'s Ex. P58 at 9.)
>
> 22. The IRS ultimately proposed willful FBAR penalty assessments for 2007 and 2008 that were each half of the average of the penalties calculated under the mitigation guidelines. (Pl. Ex. P42; Trial Tr. at 49:15–50:17.)[2]

Mr. Collin's Actions

One fact involving the FBAR penalties is that they often dwarf the amount of income tax the individual would have paid if the income had been properly reported on those accounts. In this case that was true even after the IRS imposed a penalty far below the

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[1] *United States v. Collins*, USDC WD PA, Case No. 2:18-cv-01069, February 8, 2021, https://www.taxnotes.com/research/federal/court-documents/court-opinions-and-orders/court-upholds-penalties-for-willful-failure-to-file-fbars/2r4sg (retrieved February 14, 2021)

[2] *United States v. Collins*, USDC WD PA, Case No. 2:18-cv-01069, February 8, 2021

statutory maximum. But the opinion notes that this is not relevant in the case of the FBAR penalty:

> 38. As a mixed-matter of fact and law, Mr. Collins's circumstances bring to mind the adage, "the coverup often is worse than the crime."
>
> 39. Understandably, Mr. Collins and his counsel very much wish for the Court to compare his putative tax-liability, had he properly reported his foreign accounts, against his penalty-liability under Section 5321(a)(5).
>
> 40. Such an approach appears intuitive, and the question is one likely-begged by any factfinder under the circumstances.
>
> 41. Nevertheless, the evidence reveals on the part of Mr. Collins a decades-long course of conduct, omission and scienter. That is the more salient inquiry, and Plaintiff has proven that the penalties-imposed are consistent with the law.[3]

The Court noted the following facts about Mr. Collins:

> 1. Defendant Richard Collins ("Mr. Collins") is a sophisticated taxpayer, with a sophisticated understanding of finance, financial obligations and financial consequences that are well beyond that of an average person. (Trial Tr. at 220:15–19.)
>
> 2. Mr. Collins knew that, when he approved his tax submissions in 2007 and 2008, he held financial accounts in foreign countries. (Trial Tr. at 220:21–23.)
>
> > a. Mr. Collins identified an interest in keeping his foreign accounts secret in the United States and consciously avoided disclosing his accounts. (Trial Tr. at 221:1–4.)
> >
> > b. Mr. Collins's course of conduct reflects an actual intent to deceive the IRS and others about the existence of his foreign accounts, including his effort to avoid receiving mail from UBS in the United States, as well as his express desire to "discreetly" transfer funds from Switzerland to the United States in connection with a mortgage transaction. (Trial Tr. at 221:5–19; id. at 129:13–133:19; Pl.'s Exs. P25–P28.)
> >
> > c. Mr. Collins has sought to excuse his conduct based on a multitude of objectively unreasonable beliefs, including those that:
> >
> > > i. By filing an IRS Form W-9 with UBS, he satisfied his reporting obligations for all of his foreign

[3] *United States v. Collins*, USDC WD PA, Case No. 2:18-cv-01069, February 8, 2021

> accounts (including those for which he did not file a W-9) (Pl.'s Ex. P63);
>
> ii. The U.S. Embassy in Paris advised Mr. Collins, in the 1970s, that he did not have any obligations to the IRS (Pl.'s Ex. P56);
>
> iii. As long as his foreign banks withheld taxes, Mr. Collins was not obligated to disclose his accounts to the IRS (though Mr. Collins did not ensure that UBS actually withheld funds) (Pl.'s Ex. P58 at *14; Doc. 42 at 7);
>
> iv. Disclosing his accounts to his U.S. accountant, Dale Cowher, would increase the costs required for Mr. Cowher to perform any necessary paperwork (Pl.'s Ex. P35, Pl.'s Ex. P58 at *14); and
>
> v. Swiss bank secrecy laws precluded Mr. Collins from disclosing his foreign accounts to his U.S. accountants (Pl.'s Ex. P54).[4]

IRS's Decision on the Amount of the Penalty Was Not an Abuse of Discretion

The Court reviewed the IRS's actions with regard to Mr. Collins, applying a review solely looking to see if the IRS abused its discretion in deciding on the penalty to apply. The Court notes that the mitigation standards, while not binding on the IRS, were helpful in a showing that the IRS had acted reasonably:

> 61. Although IRS internal guidelines do not bind the agency, see *Norman v. United States* 942 F.3d 1111, 1115 (Fed. Cir. 2019), the IRS's adherence in this case to these guidelines indicates that its penalty calculations were proper. See *Estate of Duncan v. Comm'r of Internal Revenue*, 890 F.3d 192, 200 (5th Cir. 2018) ("courts can draw on IRM guidelines as factors to assess the propriety of IRS actions"); cf. *Moore v. United States*, 2015 WL 1510007 at *8 n.5.
>
> 62. These nonbinding "mitigation" guidelines assist examiners in determining whether to reduce an FBAR penalty below the statutory maximum. (Pl.'s Exs. 42, 58 at 27.) See generally I.R.M. 4.26.16.4.6.1, 2008 WL 5900937 (July 1, 2008); I.R.M. 4.26.16.4.6.3, 2008 WL 5900939 (July 1, 2008). First, examiners consider whether the taxpayer's case satisfies four conditions: (a) the taxpayer has no history of FBAR penalty assessments or criminal tax or Bank Secrecy Act convictions; (b) the funds in the accounts were not from an illegal source or used to fund a criminal purpose; (c) the taxpayer cooperated during the examination; and (d) the IRS did not assess a civil fraud penalty against the taxpayer with respect to the income attributable to

[4] *United States v. Collins*, USDC WD PA, Case No. 2:18-cv-01069, February 8, 2021

> a foreign account. *Id*. If these conditions are met, examiners may mitigate the penalty below the statutory maximum by different amounts depending on the balances in each account. *Id*.[5]

The opinion notes that the IRS had documented how it had applied these guidelines in this case:

> 63. As explained in the FBAR lead sheets and penalty calculation chart, the IRS exercised its discretion in a reasoned manner when it determined that Mr. Collins was eligible for mitigation under its guidelines, calculated mitigated penalties based on those guidelines and further reduced the mitigated penalties after considering the facts and circumstances of his case. (Pl.'s Exs. P42, P58.)
>
> 64. Mr. Collins's delinquent 2007 FBAR reported five foreign accounts with an aggregate maximum balance of $885,913, and his 2008 FBAR reported six foreign accounts with an aggregate maximum balance of $906,004. (Pl.'s Exs. P14 & P15.)
>
> 65. The IRS assessed willful FBAR penalties of $154,032 for 2007 and $154,032 for 2008.[6]

The Court notes that these amounts were far below the statutory maximum penalty:

> 66. The $154,032 penalty for each year is well below the statutory maximum (the greater of $100,000 or 50% of the account balance for each unreported account).3 See 31 U.S.C. § 5321(a)(5).
>
> 67. Nothing (other than the statutory maximum) precluded the IRS from assessing far higher penalties than it ultimately did. Williams, 2014 WL 3746497 at *2 (affirming IRS's assessment of maximum civil FBAR penalties because, although "the IRS may impose a lower penalty where the violating taxpayer meets certain criteria, such departures are within the discretion of the agency") (internal citation omitted).[7]

Another Court Rejects the Position That Penalties are Capped at $100,000

Although we had noted back in 2018 that two courts had found that the true maximum FBAR willful failure penalty remained at $100,000,[8] this Court, like many others since those 2018 rulings, found that there was no such cap:

> 71. In 2004, Congress increased the maximum civil penalty for willful FBAR violations (for each account) from $100,000 to the greater of

[5] *United States v. Collins*, USDC WD PA, Case No. 2:18-cv-01069, February 8, 2021

[6] *United States v. Collins*, USDC WD PA, Case No. 2:18-cv-01069, February 8, 2021

[7] *United States v. Collins*, USDC WD PA, Case No. 2:18-cv-01069, February 8, 2021

[8] See Ed Zollars, "Another District Court Agrees Maximum FBAR Penalty Limited to $100,000," *Current Federal Tax Developments* website, July 21, 2018,

$100,000 or 50 percent of the account balance. See *United States v. Cohen*, No. CV 17-1652-MWF (JCX), 2019 WL 4605709, *3 (C.D. Cal. Aug. 6, 2019). The Secretary did not amend a 1987 regulation, which had capped the penalty at $100,000, to reflect this increased statutory maximum.

72. Although two earlier courts have found otherwise, as the last nine courts (including the Federal Circuit) to have considered the issue have found, "[s]tatutes trump regulations." See *Cohen*, 2019 WL 4605709 at *4 (collecting cases); *Norman v. United States*, 942 F.3d 1111, 1118 (Fed. Cir. 2019); *United States v. Rum*, 2019 WL 3943250 at *6–7, report and recommendation adopted, 2019 WL 5188325 at *2.

73. The Court rejects Mr. Collins's claim that a regulation from 1987 overrides the statutory maximum amended by Congress in 2004. See *Norman*, 942 F.3d at 1118 ("the 2004 amendment . . . rendered void the 1987 regulation").[9]

No Eighth Amendment Issues

The Court also rejected Mr. Collin's argument that the FBAR penalties represented an excessive fine barred by the Eighth Amendment. First, the Court found that the FBAR penalty is a civil penalty that is at least partially remedial, to compensate the government for a loss, and not covered by the Eighth Amendment. The Court points out that Congress separately provided for criminal penalties for willfully failing to file these forms.[10]

As well, the Court ruled that even if the penalty was a fine covered by the Eighth Amendment, the amounts are not excessive. The opinion, citing the *Supreme Court*'s opinion in the 1998 *Bajakajian* case,[11] finds that the court needs to look at four factors to see if a fine is excessive:

- The amount of the penalty authorized by Congress;
- The class of persons for whom the statute at issue was principally designed;
- The nature of the offense;
- The harm caused by the defendant's conduct; and
- A comparison with the potential criminal penalties, including imprisonment.

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https://www.currentfederaltaxdevelopments.com/blog/2018/7/21/another-district-court-agrees-maximum-fbar-penalty-limited-to-100000 (retrieved February 14, 2021)

[9] *United States v. Collins*, USDC WD PA, Case No. 2:18-cv-01069, February 8, 2021

[10] *United States v. Collins*, USDC WD PA, Case No. 2:18-cv-01069, February 8, 2021

[11] *United States v. Bajakajian*, 524 U.S. 321

The Court noted the amounts were well within the limits Congress had provided for such conduct, and that there is a strong presumption that Congress's judgment in such cases is within Constitutional limits.

Mr. Collins was clearly the type of person at which this penalty was aimed in the view of the Court.

Looking at the third and fourth factors, the Court held:

> 92. The third and fourth factors, the nature of Mr. Collins's actions and the harm he caused, additionally weigh against a finding of excessiveness. Mr. Collins acted willfully — which means that his actions fall into the more serious category of FBAR violations, for which Congress authorized a 50-percent penalty. 31 U.S.C. § 5321(a)(5)(C). In enacting the Bank Secrecy Act, Congress explained that "secret foreign bank accounts" have enabled the proliferation of crime, including tax evasion, securities violations and fraud. H.R. Rep. No. 91-975, at 12, reprinted in 1970 U.S.C.C.A.N. at 4397-98. When it increased the maximum willful FBAR penalty, Congress announced that improving compliance was "vitally important." S. Rep. No. 108-192, at 108.
>
> 93. Secretive offshore activity — like that engaged in by Mr. Collins — has "vast" consequences and significantly harms the integrity of the tax system. H.R. Rep. No. 91-975, reprinted in 1970 U.S.C.C.A.N. at 4397. That Congress based the willful FBAR penalty on the account balance reflects a judgment that the harm to the tax system increases with that balance, irrespective of the size of any correlated tax loss. *Chaplin's, Inc.*, 646 F.3d at 852 ("Congress . . . can distill the monetary value society places on harmful conduct"); *United States v. Mackby*, 339 F.3d 1013, 1019 (9th Cir. 2003) (harm of false claims "extends beyond the money paid out of the treasury").[12]

Finally, the Court notes that the penalty does not seem excessive when compared with a possible alternative Congress could have considered, such as imprisonment:

> As for the last *Bajakajian* factor, the penalties at issue are not excessive when compared with the potential criminal sanctions for Mr. Collins's actions. Those sanctions include imprisonment of up to five years in addition to a fine of up to $250,000 for an FBAR offense standing alone (and double that if there are other violations or a pattern of illegal activity). 31 U.S.C. § 5322(a)–(b). The criminal penalties include a substantial fine in addition to the prospect of a prison term — a consequence much more serious than even the maximum civil penalty permitted by § 5321(a)(5)(C). *Cf. Mackby*, 339 F.3d at 1018 (noting that "when courts have compared civil judgments with criminal penalties

[12] *United States v. Collins*, USDC WD PA, Case No. 2:18-cv-01069, February 8, 2021

for the same conduct, they have considered the full criminal penalty").[13]

SECTION: 197
TAX COURT EXPLAINS WHEN A TAXPAYER CAN ASSERT SUBSTANCE OVER FORM

Citation: Complex Media Inc. v. Commissioner, TC Memo 2021-14, 2/10/21

The Tax Court in the case of *Complex Media Inc v. Commissioner*[14] attempted to explain how it views the opportunity for a taxpayer to raise a substance over form argument in a tax matter.

The Doctrine and Why a Taxpayer Raising the Issue is Different

The substance over form claim argues that the transaction in question should not be evaluated based on the formal legal structure of the transaction, but rather the tax impact should be driven by the underlying substance of the transaction. The IRS raises this argument often when the government believes the transaction was structured in a manner that lacked any real economic substance, but was specifically chosen to achieve a specific tax objective.

Traditionally taxpayers have had a tougher time raising such an argument for the simple reason that, unlike the IRS, the taxpayer generally has had a hand in selecting the form of the transaction. And, in some Circuits, the courts have held that the argument simply isn't available to taxpayers. See our article from December of 2019 "Taxpayer Not Allowed to Assert Substance Over Form, No Debt Basis for Loans from Related Corporation," when the Ninth Circuit panel deciding the case indicated not only had the Circuit never held a taxpayer *could* use the doctrine, but specifically that a taxpayer cannot escape the consequences of a specific arrangement by arguing it was fictional.[15]

The Third Circuit similarly has precedent effectively barring a taxpayer from arguing substance over form generally, noting in the *Danielson* decision that:

> …a party can challenge the tax consequences of his agreement as construed by the Commissioner only by adducing proof which in an action between the parties to the agreement would be admissible to

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[13] *United States v. Collins*, USDC WD PA, Case No. 2:18-cv-01069, February 8, 2021

[14] *Complex Media Inc. v. Commissioner*, TC Memo 2021-14, February 10, 2021, https://www.taxnotes.com/research/federal/court-documents/court-opinions-and-orders/transaction-form-disavowed%3b-amortization-deductions-determined/2r4vw (retrieved February 14, 2021)

[15] Ed Zollars, "Taxpayer Not Allowed to Assert Substance Over Form, No Debt Basis for Loans from Related Corporation," *Current Federal Tax Developments* website, December 31, 2019, https://www.currentfederaltaxdevelopments.com/blog/2019/12/31/taxpayer-not-allowed-to-assert-form-over-substance-no-debt-basis-for-loans-from-related-corporation (retrieved February 14, 2021)

> alter that construction or to show its unenforceability because of mistake, undue influence, fraud, duress, etc.[16]

The Tax Court's Attempt to Clarify Its Position

But the Tax Court in this case was looking at a somewhat messy transaction where the final form of the transaction had been driven by a personality conflict between one owner of an enterprise looking to acquire a second and members of that second enterprise. The resulting transaction used cash from the acquired entity to redeem the interest of the owner in the acquiring enterprise with the personality conflict.

The transaction's details are complex—and a large reason why the opinion goes on for over 100 pages. But what is the most interesting item is the court's analysis of when a taxpayer can argue for basing the tax treatment of the transaction on its substance rather than the form the taxpayer had chosen.

The opinion notes that the Tax Court's views have changed over the years, as well as noting that quite often the Court is constrained by the *Golsen* rule to follow the specific precedent in Circuits that either bar the ability of a taxpayer to challenge the form of the transaction, or make it exceedingly difficult. But in cases where the Tax Court does not face that restriction, the opinion looks to outline how the Tax Court is now going to approach this issue.

The opinion notes that the Tax Court has indicated that a taxpayer bears a different burden than the IRS in carrying this issue, but had not been clear in stating exactly what that extra burden actually is:

> In sum, as our caselaw has evolved, it has become more hospitable to taxpayers seeking to disavow the form of their transactions. While we no longer reject those arguments out of hand, as we did in *Swiss Oil Corp.*, *J.M. Turner & Co.*, and *Television Indus.*, we have repeatedly indicated that taxpayers may face a higher burden than the Commissioner does in challenging transactional form. On occasion, as in *Glacier State Elec. Supply*, we have suggested that the taxpayer's higher burden might be an evidentiary one. But we have not identified specific factual questions that should be subject to a higher burden than that imposed by Rule 142(a) or articulated the quantum of evidence necessary to meet that burden. Nor have we offered a clear justification for imposing on the taxpayer a higher burden to prove facts relevant to the disavowal of form than the generally applicable preponderance of the evidence standard.[17]

In this opinion, the Court looks to clarify the issue, beginning with the showing the IRS must make to prevail on this argument:

> Therefore, we now conclude that the additional burden the taxpayer has to meet in disavowing transactional form relates not to the quantum of evidence but instead to its content — not how much

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[16] *Commissioner v. Danielson*, CA3, 378 F.2d at 775

[17] *Complex Media Inc. v. Commissioner*, TC Memo 2021-14, pp. 63-64

> evidence but what that evidence must show by the usual preponderance. The Commissioner can succeed in disregarding the form of a transaction by showing that the form in which the taxpayer cast the transaction does not reflect its economic substance.[18]

But the opinion notes that while a taxpayer must still show the form does not reflect the transaction's economic substance, the taxpayer must go beyond just that:

> For the taxpayer to disavow the form it chose (or at least acquiesced to), it must make that showing and more. In particular, the taxpayer must establish that the form of the transaction was not chosen for the purpose of obtaining tax benefits (to either the taxpayer itself, as in *Estate of Durkin*, or to a counterparty, as in *Coleman*) that are inconsistent with those the taxpayer seeks through disregarding that form. When the form that the taxpayer seeks to disavow was chosen for reasons other than providing tax benefits inconsistent with those the taxpayer seeks, the policy concerns articulated in *Danielson* will not be present.[19]

The *Danielson* concerns involved, for example, the potential for a taxpayer to structure a transaction to achieve a better tax result for the other party, obtain a higher price for having accepted a "disadvantageous" structure, and then disown the form on its own tax return.[20]

In this case, the Court found that the form was clearly chosen for other than tax reasons and, more to the point, if properly applied, the other party (the redeemed interest holder) does not end up with a fundamentally different tax result. The only difference is that if the substance controls (shares issued and then "redeemed" on the same day aren't really shares of the soon to be ex-interest holder, but rather an additional cash payment for the purchase of the acquired firm) is that the acquiring company will end up with a §197 intangible that can be amortized over 15 years, rather than a stock redemption payment to a shareholder.

So Is This the Final Word?

While an interesting exposition on what the Tax Court believes should apply to determine when a taxpayer may challenge the form of a transaction he/she had a part in designing, it is important to remember that the opinion cites opinions in other Circuits that present a much higher bar to a taxpayer successfully disputing the form of a transaction.

Thus, advisers are well advised to carefully read this case, especially as it discusses more restrictive holdings in Circuits other than the one to with jurisdiction in this case (the Second Circuit). The opinion and our prior discussion of the Ninth Circuit's 2019 decision indicate that, at a minimum, the Third, Fifth and Ninth Circuits are likely to be skeptical about this opinion.

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[18] *Complex Media Inc. v. Commissioner*, TC Memo 2021-14, p. 64

[19] *Complex Media Inc. v. Commissioner*, TC Memo 2021-14, p. 64

[20] *Complex Media Inc. v. Commissioner*, TC Memo 2021-14, p.

SECTION: SECURITY
IRS WARNS OF EMAIL PHISHING SCAM AIMED AT TAX PROFESSIONALS

Citation: IR-2021-34, "IRS, Summit partners issue urgent EFIN scam alert to tax professionals," 2/10/21

The IRS has issued a warning to tax professionals that the agency is aware of a phishing scam that is aimed at obtaining various personal information.[21]

The e-mail indicates that it is from "IRS Tax E-filing" with a subject line of "Verifying your EFIN before e-filing." The news release provides the following text found in the email:

> In order to help protect both you and your clients from unauthorized/fraudulent activities, the IRS requires that you verify all authorized e-file originators prior to transmitting returns through our system. That means we need your EFIN (e-file identification number) verification and Driver's license before you e-file.
>
> Please have a current PDF copy or image of your EFIN acceptance letter (5880C Letter dated within the last 12 months) or a copy of your IRS EFIN Application Summary, found at your e-Services account at IRS.gov, and Front and Back of Driver's License emailed in order to complete the verification process. Email: (fake email address)
>
> If your EFIN is not verified by our system, your ability to e-file will be disabled until you provide documentation showing your credentials are in good standing to e-file with the IRS.
>
> © 2021 EFILE. All rights reserved. Trademarks
>
> 2800 E. Commerce Center Place, Tucson, AZ 85706[22]

The news release indicates that a professional receiving such an email should take the following steps:

> Tax professionals who received the scam should save the email as a file and then send it as an attachment to phishing@irs.gov. They also should notify the Treasury Inspector General for Tax Administration at www.tigta.gov to report the IRS impersonation scam. Both TIGTA and the IRS Criminal Investigation division are aware of the scam.[23]

[21] IR-2021-34, "IRS, Summit partners issue urgent EFIN scam alert to tax professionals," February 10, 2021, https://www.irs.gov/newsroom/irs-summit-partners-issue-urgent-efin-scam-alert-to-tax-professionals

[22] IR-2021-34, "IRS, Summit partners issue urgent EFIN scam alert to tax professionals," February 10, 2021

[23] IR-2021-34, "IRS, Summit partners issue urgent EFIN scam alert to tax professionals," February 10, 2021

The IRS describes the particular motivations behind this email:

> Like all phishing email scams, it attempts to bait the receiver to take action (opening a link or attachment) with a consequence for failing to do so (disabling the account). The links or attachment may be set up to steal information or to download malware onto the tax professional's computer.
>
> In this case, the tax preparers are being asked to email documents that would disclose their identities and EFINs to the thieves. The thieves can use this information to file fraudulent returns by impersonating the tax professional.[24]

The IRS closes the release by giving more general information about scams aimed at tax professionals:

> Tax professionals also should be aware of other common phishing scams that seek EFINs, Preparer Tax Identification Numbers (PTINs) or e-Services usernames and passwords.
>
> Some thieves also pose as potential clients, an especially effective scam currently because there are so many remote transactions during the pandemic. The thief may interact repeatedly with a tax professional and then send an email with an attachment that claims to be their tax information.
>
> The attachment may contain malware that allows the thief to track keystrokes and eventually steal all passwords or take over control of the computer systems.
>
> Some phishing scams are ransomware schemes in which the thief gains control of the tax professionals' computer systems and holds the data hostage until a ransom is paid. The Federal Bureau of Investigation (FBI) has warned against paying a ransom because thieves often leave the data encrypted.[25]

[24] IR-2021-34, "IRS, Summit partners issue urgent EFIN scam alert to tax professionals," February 10, 2021

[25] IR-2021-34, "IRS, Summit partners issue urgent EFIN scam alert to tax professionals," February 10, 2021