

Big Win for Tax Whistleblowers as Pair Gets \$17.8 Million

Ruling marks first time a portion of criminal fine and civil forfeiture are included in award



Under an IRS program, whistleblowers can get as much as 30% of what the government recoups in taxes because of information they provided. A U.S. Tax Court ruling would expand the award to include a portion of the criminal fines and civil forfeitures in such cases. *PHOTO: ASSOCIATED PRESS*

By Richard Rubin and Laura Saunders

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WASHINGTON—The U.S. Tax Court awarded \$17.8 million to a pair of whistleblowers in a decision that significantly expands the scope of what can be claimed in such cases.

The ruling for the first time allowed the whistleblowers to get a portion of criminal fines and civil forfeitures in addition to part of the taxes the government recouped because of information they provided.

“This opens the door to much larger whistleblower payments in offshore-account cases,” said Bryan Skarlatos, a tax lawyer at Kostelanetz & Fink LLP in New York who wasn’t involved in the case.

The parties involved in [the case](#) weren't disclosed, but it appears to stem from the prosecution of Wegelin & Co. The Swiss bank closed after [it pleaded guilty in 2013](#) to conspiring with U.S. taxpayers to hide money from the Internal Revenue Service. The amounts and breakdown of [the \\$74.1 million in fines, taxes and forfeitures](#) in the partially redacted case [match those](#) in the Wegelin case.

Dean Zerbe, the lead lawyer for the whistleblowers, called the case a "pillar-to-post victory" for his clients and the IRS whistleblower program.

"My real hope is that the IRS and Treasury will take the opportunity with this court decision to swing the doors wide open for whistleblowers to come forward," said Mr. Zerbe of Zerbe, Fingeret, Frank & Jadav.

Judge Julian Jacobs focused on the term "collected proceeds," which refers to the amounts used to calculate the award, in his ruling.

"The term 'collected proceeds' means all proceeds collected by the Government from the taxpayer. The term is broad and sweeping; it is not limited to amounts assessed and collected under" the tax code, Judge Jacobs wrote.

The case removes a worry for potential whistleblowers that they would receive less of the proceeds if the IRS chose to pursue a criminal case than if the case were pursued purely to collect owed taxes.

"That was always a danger, but now that danger has been resolved in favor of the whistleblower," said Scott Knott, a whistleblower lawyer at the Ferraro Law Firm in Miami.

Under the IRS whistleblower program, people who have knowledge of tax violations can file confidential claims with the IRS and get as much as 30% of what the government collects. In fiscal 2015, the IRS paid 99 awards totaling \$103.5 million. The case decided on Wednesday is likely one of the five largest awards issued, Mr. Knott said.

The IRS can appeal the ruling. An agency spokesman declined to comment.

Write to Richard Rubin at richard.rubin@wsj.com and Laura Saunders at laura.saunders@wsj.com