



26 U.S.C.A. § 7212



I.R.C. § 7212

Effective: [See Text Amendments]

United States Code Annotated Currentness
 Title 26. Internal Revenue Code (Refs & Annos)
 Subtitle F. Procedure and Administration (Refs & Annos)
 Chapter 75. Crimes, Other Offenses, and Forfeitures
 ◻ Subchapter A. Crimes
 ◻ Part I. General Provisions (Refs & Annos)

→ § 7212. Attempts to interfere with administration of internal revenue laws

(a) Corrupt or forcible interference.--Whoever corruptly or by force or threats of force (including any threatening letter or communication) endeavors to intimidate or impede any officer or employee of the United States acting in an official capacity under this title, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or endeavors to obstruct or impede, the due administration of this title, shall, upon conviction thereof, be fined not more than \$5,000, or imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person convicted thereof shall be fined not more than \$3,000, or imprisoned not more than 1 year, or both. The term "threats of force", as used in this subsection, means threats of bodily harm to the officer or employee of the United States or to a member of his family.

(b) Forcible rescue of seized property.--Any person who forcibly rescues or causes to be rescued any property after it shall have been seized under this title, or shall attempt or endeavor so to do, shall, excepting in cases otherwise provided for, for every such offense, be fined not more than \$500, or not more than double the value of the property so rescued, whichever is the greater, or be imprisoned not more than 2 years.

CREDIT(S)

(Aug. 16, 1954, c. 736, 68A Stat. 855.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1954 Acts. House Report No. 1337, Senate Report No. 1622, and Conference Report No. 2543, see 1954 U.S.Code Cong. and Adm.News, pp. 4574, 5254, 5344, respectively.

CROSS REFERENCES

Period of limitation on criminal prosecution for offense under this section, see 26 USCA § 6531.

LIBRARY REFERENCES

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American Digest System

Internal Revenue ↪5264.

Key Number System Topic No. 220.

Corpus Juris Secundum

CJS Internal Revenue § 857, Interference With Administration of Tax Laws.

RESEARCH REFERENCES

ALR Library

102 ALR, Fed. 887, What Constitutes "Forcible Rescue" of Property Seized Under Any Revenue Law of United States Under 18 U.S.C.A. § 2233.

71 ALR, Fed. 852, Anti-Injunction Provision of Internal Revenue Code (26 U.S.C.A. § 7421(A)) as Precluding Federal Court's Jurisdiction Over Taxpayer's Request for Return of Property in Possession of Federal Government.

58 ALR, Fed. 220, Necessity of Proof of Intent for Conviction of Offense With Respect to Collected Taxes Under 26 U.S.C.A. § 7215.

60 ALR, Fed. 776, Corrupt of Forcible Interference With Administration of Internal Revenue Laws, Under 26 U.S.C.A. § 7212(a).

29 ALR, Fed. 561, What Constitutes "Forcible Rescue" of Seized Property Under 26 U.S.C.A. § 7212(B).

25 ALR, Fed. 8, Accused's Right to Bill of Particulars in Criminal Prosecution for Evasion of Federal Income Taxes.

8 ALR, Fed. 893, Construction and Application of 18 U.S.C.A. § 1505 Making it a Federal Offense to Obstruct Proceedings Before Federal Departments or Agencies or Congressional Committees.

63 ALR 3rd 512, Federal Income Tax Conviction as Constituting Nonprofessional Misconduct Warranting Disciplinary Action Against Attorney.

22 ALR 3rd 1173, Test of "Wilfulness" in Prosecution for Wilful Failure to Pay Tax, File Tax Return, Etc., Under § 7203 of the Internal Revenue Code of 1954 (26 U.S.C.A. § 7203).

170 ALR, Fed. 177, Construction and Application of United States Sentencing Guidelines §§ 2t1.1(B)(2), 2T1.4(B)(2), Authorizing Increase in Base Offense Level If Offense Involves "Sophisticated Concealment" of Tax Evasion.

164 ALR, Fed. 61, Downward Departure from United States Sentencing Guidelines (U.S.S.G. §§ 1a1.1 et Seq) Based on Aberrant Behavior.

118 ALR, Fed. 585, Determination of Loss Caused by Crime Involving Fraud or Deceit, Under United States Sentencing Guidelines § 2F1.1 (U.S.S.G.).

88 ALR, Fed. 573, Construction and Application of 26 U.S.C.A. § 6673, Providing for Tax Court's Assessment of

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Damages Against Taxpayer in Certain Circumstances-Modern Cases.

84 ALR, Fed. 433, Validity, Construction, and Application of Provisions for Assessment and Review of Civil Penalty Against Taxpayer Who Files Frivolous Income Tax Return (26 U.S.C.A. §§ 6702-6703).

55 ALR, Fed. 583, What Are "Enforcement Proceedings" Within Freedom of Information Act Exemption from Disclosure of Investigatory Records that Would Interfere With Enforcement Proceedings (5 U.S.C.A. § 552(B)(7)(a)).

18 ALR, Fed. 875, Construction and Application of 18 U.S.C.A. § 1510 Punishing Obstruction of Criminal Investigations.

Encyclopedias

13 Am. Jur. Trials 1, Defending Federal Tax Evasion Cases.

20 Am. Jur. Trials 255, Preparing a Federal Income Tax Case for Trial.

21A Am. Jur. 2d Criminal Law § 861, Role in the Offense.

Am. Jur. 2d Federal Tax Enforcement § 1231, Province of Court and Jury.

Am. Jur. 2d Federal Tax Enforcement § 1248, Other Acts or Crimes.

Am. Jur. 2d Federal Taxation P 71864, Tax Crimes Related to IRS Collection or Administration.

Am. Jur. 2d Trespass § 216, Generally.

Forms

Federal Procedural Forms § 43:203, Annotation References.

Treatises and Practice Aids

Federal Procedure, Lawyers Edition § 48:1610, Province of Court and Jury.

Federal Procedure, Lawyers Edition § 48:1627, Other Acts or Crimes.

Mertens: Law of Federal Income Taxation § 49E:21, Distraint on Personal Property: Authority.

Mertens: Law of Federal Income Taxation § 55A:26, Section 7212(A) -- Attempts to Interfere.

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1. Constitutionality

Internal Revenue Code provision criminalizing obstruction of due administration of the revenue laws, in allowing conviction if defendant acted "corruptly," was not unconstitutionally vague or overbroad. *U.S. v. Kelly*, C.A.2 (N.Y.) 1998, 147 F.3d 172. Internal Revenue ¶ 5251

Statute prohibiting individuals from endeavoring to obstruct or impede due administration of Internal Revenue Code was not unconstitutionally vague, overbroad and ambiguous, when statute was properly interpreted to require some pending Internal Revenue Service action of which defendant was aware. *U.S. v. Kassouf*, C.A.6 (Ohio) 1998, 144 F.3d 952, rehearing denied. Internal Revenue ¶ 5251

This section prohibiting attempts to interfere with administration of internal revenue laws was within constitutional powers of Congress as against claim that conduct proscribed was protected by U.S.C.A. Const. Amend. 1. *U.S. v. Varani*, C.A.6 (Mich.) 1970, 435 F.2d 758. Constitutional Law ¶ 82(6.1); Internal Revenue ¶ 5251

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Offense of obstructing or impeding administration of tax laws was not unconstitutionally vague under due process clause as applied to defendant's alleged actions in exchanging first-class tickets for less expensive tickets, procuring false travel receipts, submitting false receipts to employer and filing false returns in effort to avoid payment of taxes and to establish paper trail to conceal taxable income. U.S. v. Toliver, W.D.Va.1997, 972 F.Supp. 1030. Constitutional Law ¶ 258(3.1); Internal Revenue ¶ 5264

Statutory prohibition on acts which "corruptly" impede or obstruct administration of internal revenue laws was sufficient to put defendant on notice that conduct which had effect of hiding from Internal Revenue Services (IRS) extent to which and reasons why defendant was failing to fulfill his obligation to report and pay over withholding tax to government, with intent to gain unlawful benefit, were acts that were prohibited by statute, and therefore, statute was not unconstitutionally vague as applied. U.S. v. Brennick, D.Mass.1995, 908 F.Supp. 1004. Internal Revenue ¶ 5251

2. Construction

Because defendant's interpretation of this section as precluding misdemeanor prosecution where his conduct can also be punished as felony would impose a limitation on this section contrary to congressional intent in defining elements necessary for conviction, District Court would be unable to superimpose such interpretation even if presented with a rational, noninterpretive reason for doing so. U. S. v. Walker, E.D.La.1981, 514 F.Supp. 294. Constitutional Law ¶ 70.1(10)

3. Purpose

Statute prohibiting interference with administration of internal revenue laws is aimed at prohibiting efforts to impede collection of one's own taxes, the taxes of another, or the auditing of one's or another's tax records. U.S. v. Kuball, C.A.9 (Alaska) 1992, 976 F.2d 529. Internal Revenue ¶ 5264

This section prohibiting attempts to interfere with the administration of internal revenue laws was intended to prevent the impending or obstructing of internal revenue agents' performance of their duties by threats of assault, rather than assaults upon or murder of agents. U. S. v. Johnson, C.A.3 (N.J.) 1972, 462 F.2d 423, certiorari denied 93 S.Ct. 1396, 410 U.S. 937, 35 L.Ed.2d 602. See, also, U.S. v. Varani, C.A.Mich.1970, 435 F.2d 758. Internal Revenue ¶ 5264

This section was not intended to override right to petition by making punishable as a criminal offense otherwise constitutionally-protected conduct. U.S. v. Hylton, S.D.Tex.1982, 558 F.Supp. 872, affirmed 710 F.2d 1106. Internal Revenue ¶ 5264

4. Corrupt or forcible interference--Generally

Conviction for corruptly endeavoring to obstruct or impede administration of internal revenue laws was supported by evidence that defendant filed fraudulent petition to place IRS revenue agent assigned to defendant's girlfriend's case into involuntary bankruptcy, while IRS had pending claim against girlfriend of which defendant was aware, supporting reasonable inference that defendant intended to intimidate agent, or otherwise interfere with her efforts to collect unpaid taxes from girlfriend. U.S. v. McBride, C.A.6 (Ohio) 2004, 362 F.3d 360, rehearing en banc denied. Internal Revenue ¶ 5264

Evidence of defendant's threats against employees and former spouse to prevent their cooperation with IRS in its investigation of defendant was sufficient to establish that he acted "corruptly" to support his conviction of corruptly endeavoring to obstruct and impede due administration of Internal Revenue Code, regardless of whether indictment also charged defendant with making threats, as alternative basis for conviction. U.S. v. Valenti, C.A.7 (Ill.) 1997, 121 F.3d 327. Internal Revenue ¶ 5295

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Act is "corrupt" within meaning of subsec. (a) of this section proscribing attempt to interfere with administration of the Internal Revenue Service if it is performed with intention to secure unlawful benefit for oneself or another, and mere evidence of improper motive or bad or evil purpose is insufficient. *U.S. v. Hanson*, C.A.9 (Mont.) 1993, 2 F.3d 942. Internal Revenue ¶ 5264

Offense of corruptly or by force or threats of force obstructing or impeding administration of internal revenue laws is not limited to conduct involving bribery, solicitation, or subornation, but also reaches fraud and misrepresentation. *U.S. v. Mitchell*, C.A.4 (Va.) 1993, 985 F.2d 1275. Internal Revenue ¶ 5264

Conviction of attorney for corrupt interference with administration of Internal Revenue Code was supported by evidence that attorney created corporation to enable client to disguise character of income earned on drug deals and repatriate it, while avoiding reporting income in taxable year earned. *U.S. v. Popkin*, C.A.11 (Ga.) 1991, 943 F.2d 1535, certiorari denied 112 S.Ct. 1760, 503 U.S. 1004, 118 L.Ed.2d 423. Internal Revenue ¶ 5295

Term "corruptly" within meaning of statute condemning those who corruptly endeavor to intimidate or impede certain government agents or in any other way corruptly endeavor to instruct or impede due administration of the tax laws forbids endeavors intended to give some advantage inconsistent with the rights and duties of others under the tax laws. *U.S. v. Reeves*, C.A.5 (Tex.) 1985, 752 F.2d 995, rehearing denied 757 F.2d 284, certiorari denied 106 S.Ct. 107, 474 U.S. 834, 88 L.Ed.2d 87. Internal Revenue ¶ 5264

5. ---- Intent or knowledge, corrupt or forcible interference

Under this section proscribing one from endeavoring by threats of force to intimidate and impede an employee of the United States acting in his official capacity, an intent to cause harm may be implied in veiled statements. *U. S. v. Sciolino*, C.A.2 (N.Y.) 1974, 505 F.2d 586. Extortion And Threats ¶ 25.1

Proof that defendant knew that men whose entrance he was blocking were internal revenue agents and were acting in their official capacity for purpose of seizing certain properties located on premises to satisfy a tax delinquency was necessary for conviction of endeavoring, by threats of force, to impede Internal Revenue Service officers in the exercise of their duties and in their official capacities. *U. S. v. Johnson*, C.A.3 (N.J.) 1972, 462 F.2d 423, certiorari denied 93 S.Ct. 1396, 410 U.S. 937, 35 L.Ed.2d 602. Internal Revenue ¶ 5291.1

Knowledge by defendant, who appeared in his doorway dressed in either his pajamas or underwear and armed with double-barreled shotgun, that men who were backing his truck out of his driveway were internal revenue agents and were acting in their official capacity to seize truck to satisfy tax delinquency was essential element of crime of obstructing administration of internal revenue laws. *U.S. v. Rybicki*, C.A.6 (Mich.) 1968, 403 F.2d 599. Internal Revenue ¶ 5264

Count charging defendant with obstructing the administration of the internal revenue laws by committing substantive offenses contained within tax evasion counts was multiplicitous, where tax evasion required willful conduct, and a finding of willfulness would suffice to find corruption under obstruction statute, such that government could obtain obstruction conviction without presenting any facts in addition to those presented on tax evasion charge. *U.S. v. Josephberg*, S.D.N.Y.2005, 418 F.Supp.2d 297. Indictment And Information ¶ 130

Under statute prohibiting corruptly endeavoring to impede the administration of the tax laws, term "corruptly" means performed with the intent to secure an unlawful benefit for oneself or another. *U.S. v. Massey*, C.A.9 (Alaska) 2005, 2005 WL 1529703, Unreported, published in full at 419 F.3d 1008, on remand 2005 WL 3077156, certiorari denied 126 S.Ct. 2019. Internal Revenue ¶ 5264

6. ---- Force, corrupt or forcible interference

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Statute making it unlawful "in any other way corruptly or by force or threats of force" to obstruct or impede or endeavor to obstruct or impede due administration of Internal Revenue Code does not require force or threat of force directed at specific agent or employee. U.S. v. Popkin, C.A.11 (Ga.) 1991, 943 F.2d 1535, certiorari denied 112 S.Ct. 1760, 503 U.S. 1004, 118 L.Ed.2d 423. Internal Revenue ⚡ 5264

Defendant, who placed himself in doorway and refused to submit when Internal Revenue Service officers, having announced their purpose, attempted to enter premises to seize property for nonpayment of quarterly corporate taxes and who engaged in scuffle with officers, was properly charged with and convicted of willfully resisting, opposing, impeding and interfering with federal officers as well as with endeavoring, by threats of force, to impede IRS officers in the exercise of their duties and in their official capacities; the separate counts did not charge one and the same offense and constitute multiplicitous charges. U. S. v. Johnson, C.A.3 (N.J.) 1972, 462 F.2d 423, certiorari denied 93 S.Ct. 1396, 410 U.S. 937, 35 L.Ed.2d 602. Indictment And Information ⚡ 129(1)

Felony provision of this section did not absorb the misdemeanor provisions where both are shown; phrase "only by threats of force," i.e. misdemeanor provision, does not automatically abate a crime for misdemeanor to a felony whenever any proof of use of force is established. U. S. v. Walker, E.D.La.1981, 514 F.Supp. 294.

7. ---- Weapon use, corrupt or forcible interference

Even if defendant were justified in requesting Internal Revenue Service agents, who were attempting to seize his real property to satisfy a tax deficiency, to leave his property, his use of a weapon was unlawful, and his conviction did not involve any fundamental unfairness or violation of due process. U.S. v. Przybyla, C.A.9 (Alaska) 1984, 737 F.2d 828, certiorari denied 105 S.Ct. 2320, 471 U.S. 1099, 85 L.Ed.2d 839. Constitutional Law ⚡ 257; Internal Revenue ⚡ 5264

8. ---- Filing of bills against repossessors, corrupt or forcible interference

Evidence that defendant sent false bills and Internal Revenue Service (IRS) forms to various individuals involved in repossessing his farm property in attempt to get his property back or receive money that he claimed was owed to him was sufficient to establish that defendant acted "corruptly," as required to support conviction for attempting to interfere with administration of internal revenue laws; evidence indicated that defendant was acting to secure financial gain. U.S. v. Yagow, C.A.8 (N.D.) 1992, 953 F.2d 423. Internal Revenue ⚡ 5295

9. ---- Government officials or employees, corrupt or forcible interference

Agent of the Treasury Inspector General for Tax Administration (TIGTA) was acting within the scope of the authority granted TIGTA under Internal Revenue Code Title 26, which requires TIGTA to receive complaints from taxpayers regarding wrongful conduct by Internal Revenue Service (IRS) employees, during agent's phone conversation with defendant, for purposes of supporting defendant's conviction for threatening or intimidating an officer of the United States acting in an official capacity under Title 26; even though much of TIGTA's authority was derived from Title 5, which gives TIGTA agents the authority to protect IRS employees from threats and investigate any such threats, the agent was also providing defendant an opportunity to register complaints of IRS misconduct, as required by Title 26. U.S. v. Lovern, C.A.4 (Va.) 2002, 293 F.3d 695, certiorari denied 123 S.Ct. 633, 537 U.S. 1058, 154 L.Ed.2d 539. Internal Revenue ⚡ 5264

Omnibus clause of Internal Revenue statute which prohibits "in any other way corruptly * * * obstruct[ing] or imped[ing] * * * the due administration" of the tax laws includes acts against victims who are not government officials or employees involved in administration of Internal Revenue laws. U.S. v. Dykstra, C.A.8 (Iowa) 1993, 991 F.2d 450, certiorari denied 114 S.Ct. 222, 510 U.S. 880, 126 L.Ed.2d 177. Internal Revenue ⚡ 5264

10. ---- Filing of complaints or liens against agents, corrupt or forcible interference

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Defendant's conduct in filing lis pendens and attempting to interfere with sale of property by affixing enlarged copy of that document to sign advertising auction, in order to prevent sale of property to satisfy income tax deficiency, came within scope of offense of corruptly obstructing or impeding administration of Internal Revenue Code, even if defendant's underlying actions were not otherwise illegal and even though sale in fact took place. U.S. v. Bostian, C.A.4 (N.C.) 1995, 59 F.3d 474, certiorari denied 116 S.Ct. 929, 516 U.S. 1121, 133 L.Ed.2d 857. Internal Revenue ⚡ 5264

Evidence that a defendant was involved in filing a frivolous federal tort claim against an Internal Revenue Service (IRS) investigative agent was sufficient to support defendant's conviction for attempting to impede or obstruct an IRS investigation. U.S. v. Rosnow, C.A.8 (Minn.) 1992, 977 F.2d 399, rehearing denied 981 F.2d 970, certiorari denied 113 S.Ct. 1596, 507 U.S. 990, 123 L.Ed.2d 159, denial of habeas corpus affirmed 16 F.3d 1229. Internal Revenue ⚡ 5295

Defendant's legally baseless filing of "common law lien" against residence of Internal Revenue Service investigator, in obvious effort to divert investigator's time and attention from pursuing tax investigations against defendant and others, was not petition of grievances protected by First Amendment, and defendant could be convicted of corruptly endeavoring to obstruct or impede due administration of Internal Revenue Code for that conduct. U.S. v. Reeves, C.A.5 (Tex.) 1986, 782 F.2d 1323, certiorari denied 107 S.Ct. 136, 479 U.S. 837, 93 L.Ed.2d 79. Constitutional Law ⚡ 91; Internal Revenue ⚡ 5264

Evidence, including that defendant filed false complaint charging, inter alia, that revenue agent threatened, harassed, and verbally abused defendant and his employees and accountants during course of his audit, sustained conviction of attempting to interfere with administration of internal revenue laws. U.S. v. Martin, C.A.11 (Fla.) 1984, 747 F.2d 1404, rehearing denied 756 F.2d 885. Internal Revenue ⚡ 5295

Tax protestor's filing of criminal trespass complaints against Internal Revenue Service agents who entered her property pursuant to criminal investigation into tax activities of protestor's son was a protected exercise of right to petition for redress of grievances under U.S.C.A. Const.Amend. 1, precluding conviction of corruptly endeavoring to intimidate and impede the agents, where land had been posted with many "no trespassing" signs and Internal Revenue Service was on notice that its agents were not welcome and trespass complaints were not frivolous or fraudulent and were factually accurate, notwithstanding that complaints may have been motivated by desire to impede agents' investigation or that agents' conduct may have been privileged or immunized. U.S. v. Hylton, C.A.5 (Tex.) 1983, 710 F.2d 1106. Constitutional Law ⚡ 91; Obstructing Justice ⚡ 8

11. Reliance on counsel

Reliance on counsel defense was unavailable to defendant charged with obstructing or impeding implementation of Internal Revenue Code, where it was intermediary who contacted counsel, purportedly on behalf of related trust, and that intermediary conveyed any advice to defendant, so there was no indication that attorney had been hired to give defendant legal advice, that defendant actually received such advice, or that he relied on this advice. U.S. v. Bostian, C.A.4 (N.C.) 1995, 59 F.3d 474, certiorari denied 116 S.Ct. 929, 516 U.S. 1121, 133 L.Ed.2d 857. Criminal Law ⚡ 37.20

12. Rescue of seized property--Generally

Evidence was sufficient to support conviction for forcibly rescuing certain vehicles which had been seized by Internal Revenue Service agents. U. S. v. Owens, C.A.4 (N.C.) 1975, 511 F.2d 1205, certiorari denied 95 S.Ct. 2629, 422 U.S. 1008, 45 L.Ed.2d 670. Internal Revenue ⚡ 5295

13. ---- Intent or knowledge, rescue of seized property

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In addition to legality of the seizure, crime of forcible rescue of property seized by the IRS requires that defendant knew that the property had been seized, and that defendant forcibly retook the property. U.S. v. Roccio, C.A.1 (R.I.) 1992, 981 F.2d 587, certiorari denied 113 S.Ct. 3063, 509 U.S. 932, 125 L.Ed.2d 744, rehearing denied 114 S.Ct. 29, 509 U.S. 946, 125 L.Ed.2d 779. Internal Revenue ⚡ 5264

Specific intent to permanently defeat seizure of property need not be shown to establish violation of this section providing penalty for any person who forcibly rescues or causes to be rescued any property seized under internal revenue laws; it need only be shown that defendant purposefully, as opposed to mistakenly, retook property knowing that it had been seized by Internal Revenue Service. U. S. v. Harris, C.A.7 (Ill.) 1975, 521 F.2d 1089. Internal Revenue ⚡ 5250

14. ---- Lawfulness of seizure by government rescue of seized property

To support conviction of forcible rescue of property which has been seized by the IRS, seizure must have been legal, but legality depends only on whether it was performed by proper official with general authority under the tax code to make the seizure, and challenges to legality based on other considerations, including legality of underlying lien or assessment, must fail. U.S. v. Roccio, C.A.1 (R.I.) 1992, 981 F.2d 587, certiorari denied 113 S.Ct. 3063, 509 U.S. 932, 125 L.Ed.2d 744, rehearing denied 114 S.Ct. 29, 509 U.S. 946, 125 L.Ed.2d 779. Internal Revenue ⚡ 5264

Lawfulness of seizure of property for delinquent taxes means only that seizure was performed by proper official with general authority under tax code to make seizure, and thus, disputes concerning other aspects of legality of seizure are not relevant to elements of crime of forcible rescue of seized property. U.S. v. Hardaway, C.A.5 (Tex.) 1984, 731 F.2d 1138, certiorari denied 105 S.Ct. 206, 469 U.S. 865, 83 L.Ed.2d 137. Internal Revenue ⚡ 5264

Under provision of this section pertaining to forcible rescue of seized property, the lawfulness of a seizure means only that it was performed by a proper official with general authority under this title to make the seizure; disputes over other aspects of the legality of the seizure are irrelevant to the elements of the crime of forcible rescue. U. S. v. Main, C.A.7 (Ill.) 1979, 598 F.2d 1086, certiorari denied 100 S.Ct. 301, 444 U.S. 943, 62 L.Ed.2d 311. Internal Revenue ⚡ 5264

Validity of government's lien on property was not relevant factor in prosecution of defendant for rescuing property seized by government. U.S. v. Scolnick, C.A.3 (Pa.) 1968, 392 F.2d 320, certiorari denied 88 S.Ct. 2283, 392 U.S. 931, 20 L.Ed.2d 1389. Internal Revenue ⚡ 5294

Even if substantiated, defense counsel's failing to object to certain evidence, improperly objecting to other evidence, failing to call a corroborating witness, failing to request a supplementary jury instruction, failing to object to government's summation, and giving an ineffective summation could not have had a material effect on jury's verdict in prosecution for tax evasion, failure to file a personal income tax return, and attempting to interfere with the administration of the Internal Revenue Code. U.S. v. O'Donnell, C.A.2 (N.Y.) 2004, 111 Fed.Appx. 60, 2004 WL 2278546, Unreported. Criminal Law ⚡ 641.13(2.1); Criminal Law ⚡ 641.13(6)

15. ---- Removal of warning stickers, rescue of seized property

Actions of defendant in removing warning notices which IRS agents had placed on vehicle which they had seized, and driving off with the vehicle, constituted a "force" sufficient to rescue the property for purposes of the crime of forcible rescue of property seized by the IRS. U.S. v. Roccio, C.A.1 (R.I.) 1992, 981 F.2d 587, certiorari denied 113 S.Ct. 3063, 509 U.S. 932, 125 L.Ed.2d 744, rehearing denied 114 S.Ct. 29, 509 U.S. 946, 125 L.Ed.2d 779. Internal Revenue ⚡ 5264

Defendant's removal of internal revenue warning stickers placed on his automobile on seizure of it by Internal

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Revenue Service was sufficient to support a finding of "forcible rescue", by defendant, of the seized property. U. S. v. Harris, C.A.7 (Ill.) 1975, 521 F.2d 1089. Internal Revenue ☞ 5295

16. ---- Removal of seal from deposit box, rescue of seized property

Criminal "forcible rescue" of seized property is not limited to proof of force exerted against persons and includes breaking of bank window, removal of Internal Revenue Service's seal on safety deposit box and removal of box and its contents from bank. U.S. v. Scolnick, C.A.3 (Pa.) 1968, 392 F.2d 320, certiorari denied 88 S.Ct. 2283, 392 U.S. 931, 20 L.Ed.2d 1389. Internal Revenue ☞ 5264

17. ---- Removal of motor vehicles, rescue of seized property

For purposes of subsec. (b) of this section prohibiting forcible rescue of property seized by Internal Revenue Service, defendant's trespass onto dealership lot after normal business hours and removal of vehicles that had been stored there by IRS after notice of seizure constituted "forcible rescue" sufficient to sustain conviction. U.S. v. Hardaway, C.A.5 (Tex.) 1984, 731 F.2d 1138, certiorari denied 105 S.Ct. 206, 469 U.S. 865, 83 L.Ed.2d 137. Internal Revenue ☞ 5264

18. Conduct constituting obstruction--Generally

Defendant's alleged conduct in taking income tax deduction for income he purportedly assigned after it was advanced to him, and in delivering income assignment agreement to IRS agent to hide tax evasion scheme, could be charged as obstructing the due administration of the revenue laws, and did not instead have to be charged as tax evasion under internal Department of Justice policy. U.S. v. Kelly, C.A.2 (N.Y.) 1998, 147 F.3d 172. Internal Revenue ☞ 5264

Allegations in indictment that defendant filed a false income tax form were sufficient to charge defendant with violating statute prohibiting individuals from attempting to interfere with the administration of the Internal Revenue Service (IRS); government was not required to allege that defendant was aware of some pending IRS action at time he filed false form. U.S. v. Molesworth, D.Idaho 2005, 383 F.Supp.2d 1251. Internal Revenue ☞ 5286

Prohibition against endeavoring to obstruct or impede due administration of Internal Revenue Code (IRC) should be limited to conduct which has natural and probable effect of obstructing or impeding pending government action under IRC, of which defendant had notice. U.S. v. Kassouf, N.D.Ohio 1996, 948 F.Supp. 36, affirmed 144 F.3d 952, rehearing denied. Internal Revenue ☞ 5264

19. ---- Conduct before filing, conduct constituting obstruction

Taxpayer's actions which occurred before he filed tax return and before Internal Revenue Service (IRS) investigated or audited tax returns did not constitute intentional obstruction of administration of Internal Revenue Code. U.S. v. Kassouf, N.D.Ohio 1996, 948 F.Supp. 36, affirmed 144 F.3d 952, rehearing denied. Internal Revenue ☞ 5264

20. Practice and procedure

Venue for prosecution for corruptly endeavoring to obstruct administration of income tax laws by filing liens in Nevada and Washington was improper in Northern District of California where Internal Revenue Service (IRS) officers conducting criminal investigation of defendants were located; crime of endeavoring to impede IRS was complete when liens were filed. U.S. v. Marsh, C.A.9 (Cal.) 1998, 144 F.3d 1229, certiorari denied 119 S.Ct. 428, 525 U.S. 973, 142 L.Ed.2d 348. Criminal Law ☞ 113

26 U.S.C.A. § 7212

21. Limitations

Determination that charge of obstructing the due administration of the revenue laws was subject to six-year statute of limitations, even though it did not relate to intimidation of federal officers or employees, was not plain error. *U.S. v. Kelly*, C.A.2 (N.Y.) 1998, 147 F.3d 172. Internal Revenue ¶ 5281

Offense of endeavoring to obstruct or impede due administration of Internal Revenue Code was subject to six-year limitations period under statutory exception to general three-year limitations period, because, even though exception only referred to separate intimidation prong of offense, exception extended to obstruction prong of offense as well; reference to intimidation offense was descriptive, not limiting. *U.S. v. Kassouf*, C.A.6 (Ohio) 1998, 144 F.3d 952, rehearing denied. Internal Revenue ¶ 5281

Limitations period for offense of unlawfully and corruptly obstructing and impeding administration of internal revenue laws begins to run on date of last corrupt act. *U.S. v. Wilson*, C.A.4 (Va.) 1997, 118 F.3d 228. Internal Revenue ¶ 5281

Count charging defendant with corruptly obstructing or impeding due administration of internal revenue laws was subject to six-year statute of limitations, though it did not involve intimidation of officers and employees of the United States, as provided in parenthetical comment to statute of limitations. *U.S. v. Brennick*, D.Mass.1995, 908 F.Supp. 1004. Criminal Law ¶ 147

22. Sentencing

Sentence for obstructing the due administration of the revenue laws could be based on guideline for tax evasion, as one most applicable to offense of conviction, rather than on guideline for filing a fraudulent tax return, where defendant took income tax deduction for income purportedly assigned to his business after it was advanced to defendant, and delivered income assignment agreement to IRS agent to hide tax evasion scheme. *U.S. v. Kelly*, C.A.2 (N.Y.) 1998, 147 F.3d 172. Sentencing And Punishment ¶ 653(12)

Defendant's 37-month concurrent sentences, for convictions of interfering with the administration of the internal revenue laws and making a false statement in an IRS form, exceeded by one month the legal maximum penalties of three years. *U.S. v. Ekblad*, C.A.7 (Wis.) 2004, 90 Fed.Appx. 171, 2004 WL 422559, Unreported, rehearing and suggestion for rehearing en banc denied. Internal Revenue ¶ 5319

23. Instructions

District court erred in instructing jury as a matter of law that agent of the Treasury Inspector General for Tax Administration (TIGTA) was acting in the scope of his duties under Title 26 in defendant's prosecution for impeding, intimidating or obstructing an employee of the United States acting in an official capacity under Title 26, as the agent's status as an employee acting in an official capacity under Title 26 was an element of the offense in question. *U.S. v. Lovern*, C.A.4 (Va.) 2002, 293 F.3d 695, certiorari denied 123 S.Ct. 633, 537 U.S. 1058, 154 L.Ed.2d 539. Criminal Law ¶ 763(1)

24. Assistance of counsel

Defendant knowingly and voluntarily waived his right to counsel at trial for presenting false claim to IRS, obstruction of justice, and bankruptcy fraud; district court asked defendant, verbatim, twelve of thirteen questions from Bench Book for United States District Judges, delivered stern warning against self representation, and made express findings on record that defendant's waiver was knowing and voluntary. *U.S. v. McBride*, C.A.6 (Ohio) 2004, 362 F.3d 360, rehearing en banc denied. Criminal Law ¶ 641.4(4)

26 U.S.C.A. § 7212

26 U.S.C.A. § 7212, **26 USCA § 7212**

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