

IMPORTANT TAX WHISTLEBLOWER NEWS FOR PRACTITIONERS, BUSINESSES, AND WHISTLEBLOWERS

State & Local Tax Alert
June 3, 2011

Make no mistake about it: paying big awards to whistleblowers who disclose illegal conduct, including tax offenses, has become a top government enforcement strategy. Why? Because rewarding whistleblowers works. State and federal False Claims Act cases, which permit whistleblowers to sue wrongdoers on behalf of the government as *qui tam* plaintiffs, have skyrocketed and have helped the government recover tens of billions of taxpayer dollars, a sizeable piece of which often goes to whistleblowers.

Since the IRS beefed up its tax whistleblower program in 2006 by increasing and making mandatory whistleblower awards for claims involving IRS tax obligations of \$2 million or more, federal whistleblower claims have increased sharply in both number and quality. And whistleblowers are recovering millions for their efforts. In April 2010, for example, as reported in the *Wall Street Journal* and *Accounting Today*, an in-house CPA at a Fortune 500 financial firm earned \$4.5 million for exposing a \$20 million tax liability owed by his firm.

New York is betting that its new tax whistleblower law, which empowers tax whistleblowers to file their own *qui tam* whistleblower lawsuits under New York's False Claims Act, will be even more successful than the IRS whistleblower program. Since New York's law combines the power of treble damage penalties with generous whistleblower awards for *qui tam* plaintiffs (up to 30 percent of the amounts recovered plus attorney fees), New York may be on to something.

Interest in New York's new statute, enacted in August 2010, is spreading fast. At the helm is Attorney General Eric Schneiderman, who authored New York's whistleblower statute and is committed to fighting fraud. On June 8, 2011, the Attorney General is sponsoring a full-day symposium that is drawing whistleblower attorneys from around the country to hear about New York's enhanced enforcement efforts. Hodgson Russ partner Bill Comiskey has been invited to speak at the Attorney General's symposium. Since his arrival at Hodgson Russ in November 2010, Comiskey has lectured extensively about the new law, written about it (*State Tax Notes* and *Tax Stringer*), and produced a detailed podcast about the law for LexisNexis.

Attorneys

William Comiskey

Practices & Industries

False Claims Act & Whistleblower Representation

State & Local Tax

IMPORTANT TAX WHISTLEBLOWER NEWS FOR PRACTITIONERS, BUSINESSES, AND WHISTLEBLOWERS

Who should be taking note of these developments?

Anyone fearing a possible whistleblower claim should take immediate protective measures and consider seeking possible relief through voluntary disclosure. Be careful. Whistleblowers are protected under the law, and retaliatory actions will make matters worse.

Honest businesses competing with cheaters. Honest businesses should consider doing what one business recently did: use the False Claims Act as a tool to stop competitors from cheating and to level the playing field. The False Claims Act empowers honest businesses to take action to stop the cheating and, as a bonus, to recover as a whistleblower.

Whistleblowers. Anyone with information about significant tax evasion or other fraud against the government may have a whistleblower claim. The legal waters are murky, however, and all whistleblowers should seek professional help to evaluate, investigate, and pursue their claims and to protect their rights and interests as whistleblowers.