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Archer Attorneys Win Major Taxpayer Victory Against the Internal Revenue Service

Client Advisories

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Earlier this month, Archer attorneys Mark Oberstaedt and Kenneth Ahl won a major taxpayer victory against the Internal Revenue Service in a case concerning the taxpayer's alleged non-willful failure to file an annual FBAR form. In *United States v. Giraldi*, the United States District Court for the District of New Jersey held that the IRS had improperly imposed per-account penalties on the taxpayer because the Bank Secrecy Act did not authorize the IRS to impose more than one maximum penalty per year regardless of the number of accounts the taxpayer should have listed on the FBAR form. The case was a matter of first impression in the District and you can read more about it in *Accounting Today*.

Shortly after Archer's victory in the *Giraldi* case, the Ninth Circuit Court of Appeals reached the same result in *United States v. Boyd*, which further strengthens the case to be made on behalf of taxpayers.

Many taxpayers, unaware of their ability to challenge these penalties, paid considerable penalties and may now be entitled to pursue a claim for unlawful exaction. Many others may be currently considering whether to pay such penalties and, if so, how much. Taxpayers would be well served to consult experienced counsel as they assess whether they should challenge the IRS's position or seek to recover penalties already paid.

For questions regarding this case or any business counseling issues, please contact Mark Oberstaedt at 856-354-3072 or moberstaedt@archerlaw.com, or Kenneth Ahl at 215-246-3132 or kahl@archerlaw.com, or any other member of Archer's Business Counseling Group in: Haddonfield, NJ at 856-795-2121, Princeton, NJ at 609-580-3700, Hackensack, NJ at 201-342-6000, Philadelphia, PA at 215-963-3300, or Wilmington, DE at 302-777-4350.

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Related People

Mark J. Oberstaedt

Partner

moberstaedt@archerlaw.com

856.354.3072

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