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EARLELAW NEWSLETTER

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Homebuyer Tax Credit Fraud

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The Internal Revenue Service (IRS) announced on July 29, 2009, its first successful prosecution related to fraud involving the first-time homebuyer credit and warned taxpayers to beware of this type of scheme.

On Thursday July 23, 2009, a Jacksonville, Florida tax preparer, James Otto Price III, pled guilty to falsely claiming the first-time homebuyer credit on a client's federal tax return. Price faces the possibility of up to three years in jail, a fine of as much as \$250,000, or both.

To date, the IRS has executed seven search warrants and currently has 24 open criminal investigations in pursuit of potential instances of fraud involving the credit. The agency has a number of sophisticated computer screening tools to quickly identify returns that may contain fraudulent claims for the first-time homebuyer credit.

"We will vigorously pursue anyone who falsely tries to claim this or any other tax credit or deduction," said Eileen Mayer, Chief, IRS Criminal Investigation. "The penalties for tax fraud are steep. Taxpayers should be wary of anyone who promises to get them a big refund."

Whether a taxpayer prepares his or her own return or uses the services of a paid preparer, it is the taxpayer who is ultimately responsible for the accuracy of the return. Fraudulent returns may result not only in the required payment of back taxes but also in penalties and interest.

First-Time Homebuyer Credit

The First-Time Homebuyer Credit, originally passed in 2008 and modified in 2009, provides up to \$8,000 for first-time homebuyers. The

purchaser, however, must qualify as a first-time homebuyer, which for purposes of this credit means someone who has not owned a primary residence in the past three years. If the taxpayer is married, this requirement also applies to the taxpayer's spouse. The home purchase must close before Dec. 1, 2009, to qualify, and the credit may not be claimed on the purchaser's tax return until after the taxpayer closes and has purchased the home.

Earle Law Offices provides trial and appellate litigation, as well as non-litigation, legal services in the areas of business law, family law, real estate law, tax law, and trusts and estates.

* Mr. Earle is an attorney licensed to practice in all California state trial and appellate courts, the United States Supreme Court, the United States Court of Appeals for the Fourth and Ninth Circuits, federal trial courts in the Northern District of California, and the United States Tax Court. He has served as a Judge Pro Tempore for the Santa Clara Superior Court, and is also a licensed Real Estate Broker.

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