MarketWatch

Jersey Shore's 'The Situation' is going to jail for tax evasion—how to avoid the same fate

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How easy (or difficult) is it to be convicted for not paying your taxes?

Mike "The Situation" Sorrentino, a cast member of MTV's reality show "Jersey Shore," is doing something most Americans will hopefully never do: He's going to jail for tax evasion.

Sorrentino pleaded guilty to tax evasion in January and, earlier this month, was sentenced to eight months in prison. He'll start his sentence in January, so that he can marry his fiance in November and spend the holidays with his family.

Sorrentino and his brother Marc were charged with committing fraud in 2014 after the Internal Revenue Service said he had not paid all of the federal income tax he owed on the $8.9 million he earned between **2010 and 2012**.

Sorrentino allegedly structured multiple cash deposits of less than $10,000 to different bank accounts on the same days. (That's sometimes a tactic to evade government scrutiny, because banks have to report deposits of more than $10,000 to the IRS.) He also claimed luxury cars and clothes as business expenses, the Chicago Tribune **reported**. His brother, who pleaded guilty to preparing a false and fraudulent tax return, was sentenced to two years in prison.

People are guilty of evasion when they are shown, and admit, to willfully attempting to cheat and defraud the IRS. This can be difficult for the Internal Revenue Service to prove, and typically involves thousands rather than hundreds of unpaid dollars, said

Daniel Morris, senior partner at accounting firm Morris + D'Angelo in San Jose, Calif.

IRS audits are at a 15-year low, with about 1 in every 160 individual returns audited in 2017, down from 1 in 90 in 2010. The agency says it lacks the resources to do more.

The person in question may claim false exemptions or deductions, provide false or altered documents, avoid reporting income, participate in organized crime or fail to withhold, according to **the IRS**. That doesn't usually include people who make honest mistakes. "People make mistakes all the time," Morris said. "Clerical mistakes are never, ever going to be considered fraudulent, evasion or criminal."

When it gets serious

The IRS has systems in place to know when the government may be getting cheated out of tax money.

Public figures are more vulnerable to audits, said Robert Spielman, partner in the tax and business division of New York-based accounting and advisory firm Marcum. Sorrentino has been on a popular and syndicated reality show for nearly a decade and boasts a luxurious lifestyle. The IRS will typically look at a person's social media accounts and, in the case of public figures, newspaper or magazine clippings, Spielman said.

The agency also receives account information from banks and employers and, on that basis, makes assumptions about what it should be receiving in taxes, Spielman said. Two pizzerias within a block of one another in the same city shouldn't have wildly different reported incomes. If they're similar establishments with wildly different books, the IRS may investigate.

When the IRS is unaware of bank accounts or employment, it may be permitted to pull credit reports, according to former IRS trial attorney Howard Levy. "When you owe the IRS money, it is important to have an understanding of what the IRS already knows about you, and to understand the benefits and risks of telling them more," he wrote on **his blog**. If you are upfront with the IRS, it may offer a compromise settlement or payment plan.

Whistleblowers, including disgruntled employees and soon-to-become ex-spouses, sometimes report tax evasion to the IRS.

Only when the agency has determined fraud was conducted willfully — and receives admission of those actions — will criminal charges occur. Actor Wesley Snipes was convicted of tax evasion in 2008, and was sentenced to three years (though he switched to house arrest shortly before his time was up), according to personal finance site **GoBankingRates.com**. Former New York Yankees player Darryl Strawberry was sentenced to three months in prison and three months of house arrest after being indicted on federal tax evasion charges in the late 1980s. Italian actress Sophia Loren served 17 days out of a 30-day sentence in 1982 for tax evasion, but she claimed at the time it was just a mistake made by her deceased tax preparer.

What won't put you in jail

The IRS looks for differences between negligence and predetermined fraud, Morris said. The IRS is more concerned about intent, he said. "Fraud requires intent to deceive, hide, evade. Mistakes happen," Morris said. Negligence could include miscalculating charitable donations or taking more of a deduction than allowed.

Fraud, on the other hand, would normally include a very large sum of money and/or a pattern of making the same mistake again and again, he added.

The agency looks for red flags. It estimates what would be a reasonable amount in charitable donations based on a person's income and, if someone were to blow past that threshold, it could lead to **an audit**. The IRS may also be alerted by an early withdrawal from a retirement account — they may suspect that "withdrawal" is actually undeclared income — early or suddenly have a load of business expenses if they're self-employed.

Audits could lead to penalties and extra interest. The IRS could charge 20% of the disallowed amount for filing an "erroneous claim for a refund or credit," or $5,000 for a "frivolous" error, such as not providing enough information to assess correct or incorrect information.

The agency has to decide who is worth pursuing, and usually focuses on high profile people and those with significant incomes, Spielman said. "They don't have the same scrutiny for employees or even small businesses where there's not a lot of cash possibilities," he said.