



# Tax Attorneys See Reason for Clients to Worry About Panama Papers Inquiries

Monika Gonzalez Mesa, *Daily Business Review*

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Jeffrey A. Neiman

Melanie Bell

Some account holders are concerned that their offshore accounts may get more U.S. Treasury Department scrutiny in the wake of the Panama Papers leak.

They may be right, tax attorneys say.

"Whenever you see a big international story like this involving offshore accounts and offshore entities, there's a spike in potential clients inquiring about how to come forward," said Jeffrey A. Neiman, tax controversy partner at Marcus Neiman & Rashbaum in Fort Lauderdale. "The driving factor to bring someone into compliance is almost always fear. As the reality of the fishbowl world we live in becomes more clear, more and more individuals are coming forward to declare offshore assets."

Neiman, the lead federal prosecutor in cases that ended UBS account holder secrecy for Americans, said he's gotten more

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calls lately on Panama than usual, specifically about what to do with assets in Panama.

Likewise for Martin Press, a tax partner at Gunster in Fort Lauderdale.

"We are starting to receive more inquiries about Panamanian-based accounts than we have received in the past," Press said. "We're getting inquiries from people [about how] to come into one of the voluntary disclosure programs to avoid severe penalties and potential prosecution. "

Press wouldn't say how many more calls he has gotten in the weeks since the International Consortium of Investigative Journalists began exposing details about the offshore companies of politicians and celebrities formed by the Panamanian law firm Mossack Fonseca.

But he said if history is an indicator, additional leaks may surface, and the entire region will continue to get more U.S. Treasury Department scrutiny, much like Switzerland did in the wake of the U.S. prosecution of UBS account holders several years ago.

"The Mossack Fonseca situation could encourage employees of other institutions to turn over information and get paid by the U.S. government [through] various whistleblower programs," Press said.

Prospective clients are inquiring about disclosure programs for accounts held both as individuals and as companies, Press said. Voluntary offshore disclosure programs levy lesser fines to qualifying people who come forward with previously unreported foreign assets or income — but only if the Internal Revenue Service hasn't already targeted them.

"There's no doubt that law enforcement is chomping at the bit to go after trustees in Panama but also the BVI [British Virgin Islands] and Belize and other countries in the Caribbean that cater toward the offshore entity business," Neiman said. "With information from the voluntary disclosures that have already come in and the whistleblowers and the Swiss banks, we are talking about the IRS and Justice Department on steroids. They have more information at their fingertips than they know what to do with."

Neiman said the leaks create momentum for investigators, but he expects it to take months before any federal indictments emerge from newly provided information.

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## Estate Tax

Kevin E. Packman, chairman of the offshore compliance group and international private wealth at Holland & Knight in Miami, said he has been fielding calls from foreign clients with concerns about what the Panama issue could mean for them in their home countries.

Like many attorneys who work in asset protection and wealth management, he takes issue with the attitude that there is something inherently nefarious about foreigners forming companies to buy Miami real estate.

"If a foreign person wants to buy U.S. real estate and they get advice from any competent U.S. adviser, they are going to be told to take title in an entity to avoid U.S. estate tax," Packman said. "Similarly, if that same foreign person wants to invest with JPMorgan or Goldman Sachs, they are going to have their portfolio held by a foreign entity. If a foreign person dies owning a portfolio, all U.S. securities held in that portfolio are subject to estate tax. If they hold the portfolio through the foreign company, there's no U.S. estate tax when they die. Those are very valid reasons."

If a foreigner leaves shares of a foreign company in a will to their beneficiaries, even if the foreign company owns U.S. assets, there is no U.S. estate tax, although there could be foreign tax, Packman noted. If that same foreigner directly held the U.S. assets, an estate tax of up to 40 percent would apply after a \$60,000 exemption.

In contrast, if a U.S. national leaves assets to descendants, whether the assets are held individually, in a company, in the U.S. or abroad, there will be a U.S. estate tax obligation with an exemption of \$5.45 million, he said.

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