

FORMER TAX COURT JUDGE PLEADS GUILTY TO CRIMINAL TAX FRAUD

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This past April, I [wrote about a federal indictment](#) returned against Diane L. Kroupa, a former judge on the United States Tax Court, and her husband, Robert E. Fackler. The indictment charged Ms. Kroupa and Mr. Fackler with leaving off income from their tax returns and improperly claiming that certain nondeductible personal expenditures were really deductible business expenses.

In addition, the indictment accused the couple of various misdeeds during IRS audits of their tax returns, including concealing records and documents and feeding their tax preparer with false information for him to pass on to the IRS auditor. The Indictment accused Ms. Kroupa and Mr. Fackler of six counts each, consisting of charges such as conspiracy, tax evasion, making a false tax return, and obstruction of an IRS audit.

Guilty Plea: Fackler

On September 23rd Mr. Fackler entered a plea of guilty to Count 6 of the Indictment, obstruction of an IRS audit. In his plea agreement, Mr. Fackler stated that there came a time when he and Ms. Kroupa needed to pay taxes but didn't have enough money to do so.

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Schedule C is the form upon which Mr. Fackler reported income and expenses pertaining to his lobbying business.

According to the plea agreement, Ms. Kroupa told Mr. Fackler that this lack of funds was "his problem" and that he needed to find as many tax deductions as possible. Mr. Fackler understood this to mean that he should deduct personal expenses as business expenses on Schedule C of their tax return. Mr. Fackler's plea agreement portrays Ms. Kroupa as an active participant in the process by which personal expenditures were falsely claimed to be business deductions.

The plea agreement also sets forth various other acts of wrongdoing by Mr. Fackler and Ms. Kroupa in connection with the couple's reporting of their income and expenses and in connection with the IRS audit of their tax returns. The charge to which Mr. Fackler pled guilty carries a **maximum prison term of 3 years**.

The plea agreement anticipates that the advisory sentencing guidelines range for Mr. Fackler will be 24 to 30 months imprisonment, based on a total tax loss of more than \$450,000 over a seven-year period. The plea agreement permits Mr. Fackler to ask for a sentence below that range and the Government to ask for a sentence above that range. The sentencing date has not yet been set.

Guilty Plea: Ms. Kroupa

This past Friday, October 21st, Ms. Kroupa entered her own plea of guilty. She pled guilty to Count I, Conspiracy, a charge with a **maximum prison sentence of 5 years**. Ms. Kroupa's plea agreement anticipates an advisory sentencing guidelines range of 30 to 37 months. The higher range for Ms. Kroupa, compared to that of Mr. Fackler, stems from the guidelines' taking into account Ms. Kroupa's "abuse of a position of trust," namely, her position as a judge on the United States Tax Court, which causes an increase in the calculation of her offense level under the guidelines.

As is the case for Mr. Fackler, under Ms. Kroupa's plea agreement, either side can ask for a sentence above or below the advisory sentencing guidelines range. A sentencing date for Ms. Kroupa has not yet been set.

According to the Minneapolis Star Tribune, Mr. Fackler and Ms. Kroupa are in the midst of divorce proceedings, which began two months following the return of the indictment. **Apparently the couple that commits tax fraud together doesn't always stay together.**

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