

Appeals Court Affirms Conviction in Tax Evasion Case Arising from a SAR

The U.S. Court of Appeals for the Sixth Circuit affirmed the conviction of David Middleton for attempting to evade or defeat income tax in violation of 26 U.S.C. 7201. The case arose from a SAR filed by a bank employee. Middleton was a real estate agent who formed several companies through which he provided consulting services aimed at property tax reduction. Over a five (5) year period, he received more than \$1.5 million in gross receipts, which he deposited into various non-interest bearing business accounts he had established in various corporate names. He was the only authorized signatory on the accounts. Once Middleton made a deposit, he would write several checks and cash them at different bank branches by making a series of structured withdrawals for less than \$10,000. Middleton never used personal or business checks to pay bills, relying instead on cash, money orders, bank checks, and endorsed business receipt checks. He filed no income tax returns during this time.

A jury convicted Middleton on all five tax evasion counts alleged against him in the indictment (structuring was not charged, but alleged as evidence of willful intent to evade or defeat income tax). The Court of Appeals affirmed the conviction in all respects. However, the 36-month sentence imposed on Middleton was vacated and remanded to enable the trial judge to make factual findings supporting the sentence enhancement made for obstruction of justice, as required by Federal Rule of Criminal Procedure 32(c)(1). *United States v. Middleton*, 246 F.3d 825 (6th Cir. 2001).

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