



The \$10,000 Myth

We all heard of it, the \$10,000 myth. Something about not depositing more than \$10,000 in cash at the bank or else . . . something will happen. We do not know what that “something” is except for the fact that we will not like it. Perhaps someone told us that we would pay more taxes; perhaps we read somewhere that we would be investigated by the FBI if we did so. Whatever our knowledge, or lack of it, somewhere or somehow we heard that depositing \$10,000 or more in cash at the bank is not a good idea.

So was the case of Mr. Kim, who made several cash deposits of \$10,000 and \$9,000 in a span of five weeks at the same bank. The money came from a sale of his business in which the buyer made a cash down payment of \$70,000. The sale itself was reported to the IRS and Mr. Kim paid taxes on the sale. However, thinking he might have to pay double taxes on the money, Mr. Kim decided to deposit the money in several increments of less than \$10,000. And that is when the trouble began.

Approximately three or four months after the deposits, two FBI investigators came to Mr. Kim to ask some “friendly” questions: Did Mr. Kim deposit some cash at the bank recently? Where did the money come from? Who else knew about the source of the money? Afterwards, the FBI seized \$70,000 from Mr. Kim’s bank account, with a notice that FBI was investigating the case for possible money laundry. In the next three months, Mr. Kim hired a criminal defense attorney and negotiated a settlement in which Mr. Kim lost most of his \$70,000 deposit in return for FBI promising not to prosecute the case as a criminal matter.

All this could have been avoided if Mr. Kim simply deposited the full \$70,000 in cash at the bank and explained how he came into possession of the money. Even if Mr. Kim had to pay taxes, that amount would have been insignificant to the amount of money he lost as a penalty for violating the rule against money structuring.

Pursuant to Bank Secrecy Act and the USA PATRIOT Act, the Federal government requires financial institutions to report any currency transactions in excess of \$10,000. The main purpose of the rule is to detect and prevent money laundry, in which drug dealers or terrorists attempt to move illicit funds for the purpose of concealing the true source of ownership of the funds. However, the rule is not just limited to money laundry and is applicable to any transactions in which individuals “cause or attempt cause a domestic financial institution to fail to file a report” required by the government. 31 U.S.C. § 5324(a). In other words, even if the money was obtained legitimately as was the case with Mr. Kim, the act of simply making structured deposits in order that banks do not report the transactions can, in and of itself, be considered a crime. Thus, small transactions under \$10,000 that are made within short intervals and which cannot be adequately explained can be viewed as a single transaction for



the purpose of applying the structuring rule. Proof is a simple matter of obtaining the transaction records from the bank, which shows all the deposits made into the bank.

The penalty can be severe. A criminal penalty can include money fines and up to 5 years imprisonment. If the structured amount exceeds \$100,000 in a 12-month period, the individual may face double fines and up to 10 years imprisonment. Even if the case proceeds as a civil case, if the government wins not only does the individual forfeit all the money, but he or she may face a civil fine of up to 10 percent of the value of the forfeited money or \$5,000, whichever is less.

Therefore, reflecting upon the \$10,000 myth, we now realize that some of it is true. Something will happen when you report a cash deposit in excess of \$10,000. But we now know that something far worse will happen if you attempt to hide your deposits in money structuring.