

COPY

FILED

1 DEBRA W. YANG
 United States Attorney
 2 EDWARD M. ROBBINS, JR.
 Assistant United States Attorney
 3 Chief, Tax Division
 ROBERT F. CONTE (SBN 157582)
 4 Assistant United States Attorney
 Federal Building Room 7211
 5 300 North Los Angeles Street
 Los Angeles, California 90012
 6 Telephone: (213) 894-6607
 Facsimile: (213) 894-0115

2003 SEP 30 AM 10:00
 CLERK U.S. DISTRICT COURT
 CENTRAL DISTRICT OF CALIF.
 LOS ANGELES

7 ROBERT D. METCALFE
 Trial Attorney, Tax Division
 8 U.S. Department of Justice
 Post Office Box 7238
 9 Ben Franklin Station
 Washington, D.C. 20044
 10 Tel. (202) 307-6525
 11 Fax (202) 514-6770

12 Attorneys for United States

13
 14 IN THE UNITED STATES DISTRICT COURT FOR THE
 15 CENTRAL DISTRICT OF CALIFORNIA

16 UNITED STATES OF AMERICA,
 Plaintiff,

v.

18 JAMES A. MATTATALL,
 19 Defendant.

LACV03-7046 DDP PIWX
 Civil No.
 Complaint for Permanent Injunction

20 Plaintiff, the United States of America, complains and alleges against the
 21 defendant, James A. Mattatall, as follows:

Jurisdiction

23 1. This Court has jurisdiction over this action to enjoin Mattatall from
 24 violating the Internal Revenue Code (I.R.C.), 26 U.S.C., pursuant to 28 U.S.C.
 25 §§ 1340 and 1345 and I.R.C. §§ 7402(a), 7407 and 7408.

28 *Complaint for Permanent Injunction*

United States v. James A. Mattatall

1 **Venue**

2 2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1396
3 because Mattatall resides in this judicial district.

4 **Nature of Action**

5 3. This action has been requested by the Chief Counsel of the Internal
6 Revenue Service (IRS), a delegate of the Secretary of the Treasury, and
7 commenced at the direction of a delegate of the Attorney General, pursuant to
8 I.R.C. §§ 7402, 7407 and 7408.

9 4. The United States is bringing this complaint to permanently enjoin
10 Mattatall from:

11 (a) acting as an income tax return preparer;

12 (b) organizing or selling abusive trust arrangements, or other plans or
13 arrangements that advise or encourage taxpayers to attempt to evade the
14 assessment or collection of their correct federal tax;

15 (c) engaging in any activity subject to penalty under I.R.C. §§ 6700, 6701,
16 or 6694; and

17 (d) engaging in other conduct that substantially interferes with the
18 enforcement of the internal revenue laws.

19 **Defendant**

20 5. Defendant James A. Mattatall resides at 23624 Kentworthy Avenue,
21 Harbor City, California 90710.

22 **Defendant's Activities**

23 6. Mattatall, who is a registered tax return preparer with the California Tax
24 Education Council, has prepared federal income tax returns for other taxpayers
25 since at least 1984.

26 7. Since at least 1999, Mattatall has organized and promoted to individual
27 taxpayers a package of multiple domestic and foreign trusts that he falsely states

1 will legally allow the individual trust purchaser to avoid paying federal income tax
2 by taking the purchaser “outside” of the federal tax system.

3 8. Defendant promotes these trust arrangements through word of mouth and
4 an “infomercial” videotape that identifies him as a person with expertise in trusts.

5 9. Mattatall advises customers to transfer their personal and business assets
6 to what he refers to as “domestic business trusts” or “unincorporated business
7 organizations.” Mattatall advises establishing a separate trust for each business,
8 for vehicles, and for a residence. At Mattatall’s direction, purchasers of his trust
9 packages also establish a “manpower trust” and a “bill payer trust.”

10 10. The manpower trust “contracts” with the business trust to supply the
11 labor and/or services of the trust purchaser in the operation of his or her business.
12 The bill payer trust pays the trust purchaser’s personal, non-deductible living
13 expenses. The trust that holds the trust purchaser’s home pays the mortgage on
14 the home. All of these domestic trusts are funded, ultimately, with income derived
15 from the operation of the trust purchaser’s business.

16 11. Mattatall also advises his customers to establish two foreign trusts in
17 tax haven countries. The “1st foreign trust” holds “certificates of beneficial
18 interest” in the three domestic trusts, and the “2nd foreign trust” holds “certificates
19 of beneficial interest” in the 1st foreign trust.

20 12. Under Mattatall’s plan, the domestic trusts – the business trusts,
21 manpower trusts, and bill payer trusts – distribute all of their net income to the
22 “1st foreign trust,” which then distributes the funds to the “2nd foreign trust.”

23 13. The trust purchaser accesses funds held by those “foreign” trusts
24 through debit or credit cards issued by offshore banks in tax haven countries.

25 14. The customers who purchase trust packages from Mattatall continue to
26 exercise control over and use as their own all of their personal and business
27 property that was ostensibly transferred to the trusts. For example, despite

1 transferring their property to the “trusts,” the trust purchasers continue to exercise
2 sole signature authority and control over their businesses’ bank accounts and other
3 property.

4 15. On information and belief, Mattatall charges \$5,000 or more to each
5 individual purchaser to set up this multiple-trust system.

6 16. Mattatall also prepares federal income tax returns for both the
7 individual purchaser (Forms 1040) and for the domestic trusts (Forms 1041), for
8 which, on information and belief, he charges additional sums.

9 17. On the tax returns Mattatall prepares for the domestic trusts (Forms
10 1041), he claims a deduction for the trust purchasers’ personal living expenses.
11 These personal living expenses include many items that individual taxpayers are
12 not entitled to deduct, such as the costs of maintaining the purchasers’ personal
13 residence, utilities, and the like.

14 18. In addition, Mattatall also causes the domestic trusts to take deductions
15 for their distributions to the “1st foreign trust,” thereby ostensibly avoiding any
16 federal income tax liability of the domestic trusts.

17 19. On the individual tax returns (Form 1040) that Mattatall prepares for
18 his trust customers, he fails to include as income either the personal living
19 expenses paid by the domestic trusts on behalf of the customer or the offshore
20 monies accessed by the customer from the foreign trusts.

21 20. The net result of the income tax returns prepared by Mattatall is that no
22 taxable liability is reported by either the trusts or the individual trust purchaser.

23 21. When business equipment and other assets are transferred to the
24 customer’s business trust for no consideration, the trust purchaser typically fails to
25 recognize any gain on the transfer because those assets are improperly valued at
26 their fair market value on the transfer date on the tax returns prepared by Mattatall.

1 22. Mattatall has made numerous false or fraudulent statements regarding
2 the tax advantages allegedly available to purchasers of these “trusts.” In the
3 infomercial videotape, he falsely or fraudulently claimed that:

- 4 • The package of domestic and foreign trusts sold by defendant takes a
5 customer’s business “outside of the system” and results in no federal
6 tax liability to either the customer or the trusts;
- 7 • The multiple trusts assume customers’ tax liabilities and their
8 requirements to file tax returns with the IRS;
- 9 • Trust purchasers can assign income from their businesses to sham or
10 grantor trusts located in tax haven countries and enjoy that income
11 tax-free by using credit or debit cards issued by offshore banks;
- 12 • Trust purchaser recognize no income or taxable gain from their labor
13 because they are paid in gold in an amount exactly equal to the value
14 of the services they rendered;
- 15 • The assets transferred to trusts purchased from defendant would
16 receive a stepped-up basis;
- 17 • Trust purchasers could be the “general managers” of the trusts which
18 they created, and exercise the same control as previously over the
19 assets transferred to the trusts without the trusts being deemed shams
20 or grantor trusts; and
- 21 • Customers who purchased trust documents and arrangements from
22 the defendant could properly claim income tax deductions for their
23 personal residences, furnishings and other property.

24 23. In representing his customers before the IRS, Mattatall deliberately
25 attempts to delay and obstruct the IRS examination into his abusive trust scheme
26 and the IRS examinations of other taxpayers, by:

- 1 • refusing to provide the financial records and information of
- 2 taxpayers for whom he prepared tax returns.
- 3 • refusing to allow his clients to provide the records and
- 4 information requested by the IRS.
- 5 • counseling his clients not to respond to Internal Revenue
- 6 Service notices and correspondence unless they were signed
- 7 under penalty of perjury, a condition which Mattatall knew was
- 8 not required by law, and which impeded the ability of the IRS
- 9 to conduct examinations of the tax returns filed by his clients
- 10 and their sham trusts.

11 24. Despite being advised by the Internal Revenue Service that his conduct
12 (including the specific activities described above in paragraphs 17 through 23)
13 was subject to penalty and an injunction, Mattatall has not stopped promoting his
14 abusive trust scheme or preparing false and fraudulent returns.

15 **Harm to the Public**

16 25. Mattatall's customers have been harmed by his promoting abusive
17 trusts and preparing false and fraudulent tax returns, because his customers have
18 paid him significant sums to establish worthless trusts and to prepare tax returns
19 that understate their income tax liabilities.

20 26. The United States is harmed because Mattatall's customers are not
21 paying their fair share of taxes to the United States Treasury. To date, of the more
22 than 140 Form 1040 income tax returns prepared by Mattatall which the IRS
23 selected for audit, examinations of only 18 returns have resulted in the assertion of
24 audit deficiencies totaling nearly \$1 million in tax and penalties. Moreover, some
25 of these audit deficiencies may never be collected, resulting in a permanent loss to
26 the United States Treasury.

1 prohibiting only that specific enumerated conduct) would not be sufficient to
2 prevent that person's interference with the proper administration of the internal
3 revenue laws, the court may enjoin the person from further acting as a federal
4 income tax return preparer.

5 31. Mattatall has prepared federal income tax returns for individual
6 taxpayers (Forms 1040) and trusts (Forms 1041) that understate tax liability based
7 on the false and fraudulent position that taxpayers can eliminate their tax liability
8 through using sham trusts.

9 32. Because of his experience and sophistication in tax matters, Mattatall
10 knew or should have known that the positions he asserted on his customers'
11 returns were unrealistic within the meaning of I.R.C. § 6694.

12 33. Specific examples of the unrealistic positions asserted by Mattatall in
13 preparing federal income tax returns include (but are not limited to) the following:

14 a. Mattatall prepared a federal income tax return for a Los Angeles
15 customer which improperly shifted over \$1 million in capital gains income
16 to her sham trust, leaving the customer with an income tax deficiency of
17 more than \$500,000 and penalties in excess of \$100,000.

18 b. A customer in San Juan Capistrano reported the income earned
19 from his business on a trust income tax return prepared by Mattatall. The
20 Internal Revenue Service determined that the customer, who failed to file
21 his own tax return, owed more than \$50,000 in additional taxes and
22 penalties.

23 34. Mattatall has engaged in other fraudulent and deceptive conduct that
24 substantially interferes with the proper administration of the internal revenue laws,
25 including his improper attempts to delay and obstruct the IRS from completing its
26 investigation into his abusive trust scheme and its examinations of his customers'
27 tax returns.

1 35. Mattatall's actions, as described above, fall within I.R.C. §§
2 7407(b)(1)(A) and (D), and are thus subject to injunction under Section 7407.

3 36. Mattatall should be permanently enjoined from acting as a federal
4 income tax return preparer because unless enjoined he is likely to continue to
5 engage in this unlawful conduct.

6 **Count II**

7 **Injunction under I.R.C. § 7408**

8 37. Plaintiff incorporates by reference the allegations in paragraphs 1 - 36.

9 38. I.R.C. § 7408(a) authorizes a district court to enjoin any person from
10 engaging in conduct subject to penalty under Sections 6700 and 6701 of the Code,
11 if injunctive relief is appropriate to prevent recurrence of that conduct.

12 39. I.R.C. § 6700 imposes a penalty on any person who, in connection with
13 organizing, promoting, or selling a plan or arrangement, makes or furnishes a
14 statement about the tax consequences of participating in the plan or arrangement
15 which the person knows or has reason to know is false or fraudulent as to any
16 material matter.

17 40. I.R.C. § 6701 imposes a penalty on any person who, among other
18 conduct, knowingly aids or assists in the understatement of the tax liability of
19 another person on a tax return, claim for refund, or other document.

20 41. The "trusts" that Mattatall has organized for and promoted to his
21 customers are shams that are devoid of economic substance. Alternatively, the
22 "trusts" (1) are grantor trusts that may be disregarded for federal income tax
23 purposes, or (2) fail to comply with the requirements of California law.

24 42. The trusts used by Mattatall's customers are similar to the abusive trusts
25 described in IRS Public Notice 97-24. That Notice describes trust arrangements
26 that falsely promise that taxpayers can claim tax benefits from trusts with no
27

1 meaningful change in the taxpayers' control over or benefit from their income or
2 assets.

3 43. Defendant, because of his experience and sophistication as a federal
4 income tax return preparer, knew or had reason to know that he made false or
5 fraudulent statements, within the meaning of I.R.C. § 6700, in connection with the
6 trust arrangements or packages that he promoted and sold.

7 44. By preparing income tax returns for his customers and their trusts that
8 improperly claimed deductions and failed to report income based on this abusive
9 trust scheme, defendant has engaged in preparing or presenting a portion of a tax
10 return or other document, knowing that such portion will be used in connection
11 with a material matter arising under the internal revenue laws, and knowing that
12 such portion (if so used), would result in understating the tax liability of another
13 person. Mattatall's conduct is thus subject to penalty under I.R.C. § 6701.

14 45. Unless enjoined by this court, Mattatall is likely to continue to engage
15 in such conduct. Injunctive relief is therefore appropriate under I.R.C. § 7408.

16 **Count III**

17 **Injunction under I.R.C. § 7402 for Unlawful Interference** 18 **with Enforcement of the Internal Revenue Laws** 19 **and Appropriateness of Injunctive Relief**

20 46. The United States incorporates by reference the allegations in
21 paragraphs 1 - 45.

22 47. I.R.C. § 7402 authorizes a court to issue orders of injunction as may be
23 necessary or appropriate for the enforcement of the internal revenue laws.

24 48. Mattatall, through the actions described above, has engaged in conduct
25 that interferes substantially with the enforcement of the internal revenue laws.

26 49. If Mattatall is not enjoined, the United States will suffer irreparable
27 harm because the losses caused by Mattatall will continue to increase.

1 50. While the United States will suffer irreparable injury if Mattatall is not
2 enjoined, Mattatall will not be harmed by being compelled to obey the law.

3 51. The public interest would be advanced by enjoining Mattatall because
4 an injunction will stop his illegal conduct and the harm that conduct is causing to
5 the United States Treasury and the public.

6 52. If Mattatall is not enjoined, he is likely to continue to interfere with the
7 enforcement of the internal revenue laws.

8 WHEREFORE, the United States of America prays for the following relief:

9 A. That the Court find that Mattatall has engaged in conduct subject to
10 penalty under I.R.C. §§ 6700, 6701 and 6694, and that injunctive relief under
11 I.R.C. §§ 7407 and 7408 is necessary and appropriate to prevent a recurrence of
12 that conduct;

13 B. That the Court find that Mattatall has engaged in conduct interfering
14 with the enforcement of the internal revenue laws, and that injunctive relief is
15 appropriate to prevent the recurrence of that conduct pursuant to the Court's
16 inherent equity powers and I.R.C. § 7402(a);

17 C. That this Court, pursuant to I.R.C. § 7407, enter a permanent injunction
18 prohibiting Mattatall from acting as a federal income tax return preparer;

19 D. That this Court, pursuant to I.R.C. §§ 7402(a) and 7408, enter a
20 permanent injunction prohibiting Mattatall, individually and doing business under
21 any other name or using any other entity, and his representatives, agents, servants,
22 employees, attorneys, and those persons in active concert or participation with
23 him, from directly or indirectly:

24 (1) Engaging in activity subject to penalty under I.R.C. § 6700, including
25 organizing or selling a plan or arrangement and making a statement
26 regarding the excludibility of income that he knows or has reason to
27 know is false or fraudulent as to any material matter;

- 1 (2) Engaging in activity subject to penalty under I.R.C. § 6701, including
2 preparing and/or assisting in the preparation of a document related to
3 a matter material to the internal revenue laws that includes a position
4 that he knows will result in an understatement of tax liability;
- 5 (3) Organizing, promoting, marketing, or selling any type of abusive tax
6 shelter, plan, or arrangement, including any asset protection device
7 such as trusts, limited liability corporations, or similar arrangements,
8 advocating noncompliance with the income tax laws or tax evasion,
9 misrepresenting the tax savings realized by using such an
10 arrangement or concealing the receipt of income or location of assets
11 from the IRS;
- 12 (4) Engaging in any other activity subject to penalty under I.R.C. §§ 6700
13 or 6701; and
- 14 (5) Engaging in other conduct interfering with the enforcement of the
15 internal revenue laws;

16 E. That this Court, pursuant to I.R.C. §§ 7402(a), enter an injunction
17 requiring Mattatall to contact by mail all individuals who have purchased his
18 abusive tax shelters, plans, arrangements, or programs, or any other abusive
19 shelter, plan, or program in which Mattatall has been involved, to inform those
20 individuals of the Court's findings concerning the falsity of Mattatall's
21 representations and attach a copy of the permanent injunction against Mattatall,
22 and to file with the Court, within 30 days of the date the permanent injunction is
23 entered, a certification that he has done so;

24 F. That this Court, pursuant to I.R.C. §§ 7402(a), enter an injunction
25 requiring Mattatall to produce to the United States, within 30 days of the date the
26 permanent injunction is entered, any records in his possession or to which he has
27 access, identifying by name, Social Security Number, address, and telephone

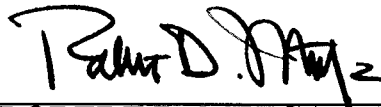
1 number all individuals who have purchased his abusive tax plans, arrangements, or
2 programs, or any other shelter, plan, or program in which Mattatall has been
3 involved;

4 G. That this Court order that the United States is permitted to engage in
5 post-judgment discovery to ensure compliance with the permanent injunction; and

6 H. That this Court grant the United States such other relief, including the
7 costs of this action, as is just and equitable.

8 Dated this 26th day of September, 2003.

9
10 DEBRA W. YANG
United States Attorney
11 EDWARD M. ROBBINS, JR.
Assistant United States Attorney
12 Chief, Tax Division
ROBERT F. CONTE (SBN 157582)
Assistant United States Attorney
13 Federal Building Room 7211
300 North Los Angeles Street
14 Los Angeles, California 90012
Telephone: (213) 894-6607
15 Facsimile: (213) 894-0115

16
17 

18 ROBERT D. METCALFE
Trial Attorney, Tax Division
19 U.S. Department of Justice
Post Office Box 7238
20 Ben Franklin Station
Washington, D.C. 20044
21 Telephone: (202) 307-6525
Facsimile: (202) 514-6770

22 Attorneys for plaintiff, United States of
23 America