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## Celebrity Poker Games Played Out in Front of the IRS

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The recent stories about certain celebrities who won or lost large sums in Hollywood big games raised some interesting issues. In one story a trustee in bankruptcy has brought “claw back” actions against players who won very large sums from a guy who was convicted of embezzlement. The trustee asserts in his lawsuits that the money won is the property of the bankruptcy estate of the company that was the victim of the embezzlement. The underlying facts are a bit more complex but some interesting questions are:

First, did the players win the sums claimed in the lawsuits?

Second, if they did win, did they keep records of wins and losses so that they could and did accurately report their gambling income for state and federal tax purposes?

Third, if the player(s) did report their gambling income will they be able to take a deduction on the “claim of right” doctrine (IRC §1341) for any restitution payments that they make to the bankruptcy trustee?

The answer to the third question may depend upon whether the game is determined to have been legal or illegal under California law. If the game is found by the IRS (who will initially determine any refund claims) or in the U.S. District Court (in a refund suit) to be a “hosted” game and therefore illegal the claim of right deduction may be denied. The recourse then will be to the U.S. District Court to try a refund suit.

If the players did not report their gambling income, then in addition to the clawback claims of the trustee they may face other actions by the IRS or FTB, both civil and criminal.

Conclusion: The Hollywood poker circuit offer really big table stakes and some hands are yet to be played.

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