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Justice Department Asks Federal Court to Shut Down Utah Promoters of Solar Energy Tax Fraud Scheme

Two Utah companies are running a nationwide abusive scheme that purports to use false tax deductions and claims of the solar energy credit to reduce their customers' federal income tax liability, according to a complaint filed today by the Justice Department. The United States' complaint seeks to stop Utah companies RaPower-3 LLC and International Automated Systems Inc.; Utah residents R. Gregory Shepard and Neldon Johnson; Nevada company LTB₁ LLC and Oregon resident Roger Freeborn, from facilitating and promoting the allegedly abusive tax scheme.

According to the complaint filed in the U.S. District Court for the District of Utah, the defendants promote an abusive tax scheme based on a purported solar energy generation facility in Millard County, Utah. The suit alleges that the defendants claim to own and operate technology that offers a "disruptive" and "revolutionary" approach to capturing and using solar energy. But, according to the complaint, the defendants' so-called technology is a sham.

"The Department of Justice and the IRS work aggressively to detect, investigate and shut down schemes that purport to allow others to avoid paying their proper federal income tax," said Acting Assistant Attorney General Caroline D. Ciruolo for the Tax Division. "If a tax scheme sounds too good to be true, it probably is."

The complaint alleges that the defendants purport to sell "solar thermal lenses" – component parts of their technology – to individual customers. According to the complaint, the defendants claim that a customer who purportedly purchases a lens is entitled to claim depreciation and other business-related expenses and the solar energy credit on the customer's individual income tax return. Under the proper circumstances, the Internal Revenue Code allows a taxpayer engaged in a trade or business to take certain tax deductions for expenses the taxpayer incurs while generating income; likewise, if all of the requirements are met, the tax law allows an "energy credit" for certain "energy property." But there are specific requirements a taxpayer must meet in order to lawfully claim either kind of tax benefit.

According to the complaint, the defendants know, or have reason to know, that their statements to customers and potential customers about tax benefits in connection with promoting their solar energy scheme are false or fraudulent. The complaint cites a number of reasons that the defendants allegedly know, or have reason to know, about the falsity of their statements, including that the lenses and the facility do not and will not produce solar energy that could be collected and used for any purpose that Congress intended to encourage through tax credits and that their customers are not engaged in any legitimate trade or business related to the scheme.

The complaint alleges that the Internal Revenue Service (IRS) has disallowed defendants' customers' claims of illegitimate tax benefits from the solar energy scheme. According to the complaint, defendants' customers, who reside around the country, have filed at least 70 cases which are currently pending in Tax Court. The complaint estimates that the harm to the U.S. Treasury from those Tax Court cases alone is more than \$4 million.

The government's complaint further alleges that the defendants engaged in a multi-level marketing scheme to enrich themselves by encouraging customers to "sponsor" additional individuals to buy lenses. According to the complaint, some of the defendants' customers have recruited others to buy into the scheme, in exchange for a commission. In addition to stopping the marketing of the alleged tax scheme, the complaint seeks disgorgement of all income that the defendants earned through the alleged scheme and to stop the defendants from preparing tax returns or other tax documents for anyone else.

Abusive tax structures and **return preparer fraud** are both among the IRS' **Dirty Dozen Tax Scams for 2015**. The IRS has some tips **on its website** for choosing a tax preparer and has launched a free **directory** of federal tax preparers. In the past decade, the Tax Division has obtained injunctions against hundreds of unscrupulous tax preparers and tax scheme promoters. Information about these cases is available on the Justice Department's **website**. An alphabetical listing of persons enjoined from preparing returns and promoting tax schemes can be found on **this page**. If you believe that one of the enjoined persons or businesses may be violating an injunction, please **contact the Tax Division** with details.