

# Issue: tax evasion essay examples

[Law](#), [Criminal Justice](#)



Tax evasion refers to the illegal practices by organizations, corporations or persons, which deliberately avoid meeting the actual tax liabilities. Under the German Criminal Tax Fraud Law, false taxes declaration, failure to or delayed tax declaration comprises a felony, misdemeanor or an infraction, depending on the nature of the act and its gravity, but this penal code allow judges to exercise discretion in the determination of sentences. Intentional tax fraud must be prosecuted as felonies while grossly negligent criminal evasion of tax liabilities is treated as infractions. The law considers all business activities inside or rendered inside Germany are subject to paying turnover tax, income tax and corporation tax unless expressly exempted. Section 2(4) of the German Turnover tax Act (1956), clearly defines an entrepreneur as any individual that offer professional or business work and regardless of the contractual arrangements, they must pay taxes on incomes both to their businesses as well as individual incomes if such enterprise occurs inside Germany and its territories. Under Section 2, clause 1 of Germany's Income Tax Act (1962), all individuals residing in Germany must declare their incomes/earnings throughout the world. This is applicable to all people who permanently or temporarily live in Germany.

## **Analysis**

The Ex-Deutsche Post CEO Klaus Zumwinkel invested money in the foundation based in Liechtenstein, which is a tax haven. His investments amounted to 11. 8 million euros by the close of 2006 and he received an annual income of between 346, 173 euros and to 472, 710 euros. The investment does earn him income, and while the location of the actual investment may be exempt from taxation, Mr. Klaus Zumwinkel retained his

tax obligations on all incomes earned from across the world. § 2 of the German Turnover tax Act defines investments such as this as entrepreneurial and thus regardless of the nature of the nature of the business that Mr. Klaus was conducting; he is obligated to declare both the business turnover, as well as his personal earnings from the venture to the Germany tax authorities. This is required under the Germany Fiscal Law, under Section 1 Clause 1 of the Income Tax Act. The laws require that Mr. Klaus, by virtue of the fact that he resides in Germany, to make timely and accurate declarations of his personal incomes including the turnover and earnings of any entrepreneurial ventures that he is involved. The failure to meet these obligations rendered him liable to the penalties stipulated under the law. These include a jail sentence and/or a fine. In this case, Mr. Klaus was €1 million (\$1.3 million) as well as a two-year suspended sentence. While the actual prison sentence could have been higher, the court exercised its discretion in the determination of Klaus' contrition and collaboration with the investigators.

## **Conclusion**

Klaus Zumwinkel is guilty of tax evasion under Germany law, because of his failure to declare his investments and earnings to the tax authorities in Germany. In addition, the court determined that Klaus Zumwinkel did meet his other tax obligations payable on failed to give an accurate declaration of his tax liabilities, which also amounts to a crime under Germany tax law. It is understandable why governments would want their citizens to pay tax in order to maintain public infrastructure and services. Effectively, the failure of some citizens to comply amounts to a breach of their civic duty and imposes

an unfair burden on other citizens. Tax evasion constitutes a criminal offense under many jurisdictions across the world, with individuals convicted in being liable to serve prison sentences and/or pay fines, *Spies v. United States*.

## **ISSUE: DUE PROCESS**

### Analysis

The investigators in Klaus' case conducted a search of the defendant's house in order to obtain evidence to be used in the case. However, there is no evidence that the search was not sanctioned by the court, especially since there is a probable cause to believe that the search and subsequent arrest of Mr. Klaus could have led to important leads or evidence in the case. In addition, the investigators in this bought information from an informant who previously worked as Mr. Klaus' employees. While this seems irregular, the due process provisions under the Fourth Amendment does not protect against infringements perpetrated by private citizens or corporations, which once more renders the actions by the police to be in accordance with the due process infringements. However, it is arguable that the third parties, whose information was handed over to the Germany authorities along with Mr. Klaus, may have had their rights under the Fourth Amendment infringed upon.

### **Conclusion**

The police conducted a search of Mr. Klaus house with an express warranty from a court, which satisfies the due process requirements under the Fourth Amendment. This is not true about the third parties involved in the case. The governments that had the information about the clients to Swiss and

Liechtenstein banks can argue that the government obtained the information in arbitrary searches, hence rendering the information illegal under the rules of evidence. In addition, Mr. Klaus' family can seek protections under the Fourth Amendment from the police conducting searches in their home, unless a court specifically sanctions it.

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