



## Getting burned twice? Financial fraud and tax liabilities

AMERICAN GREED, MADOFF BEHIND BARS, US: TELEVISION, BUSINESS NEWS

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CNBC.com | Wednesday, 31 Jul 2013 | 11:07 AM ET

Bay Area resident Bernice Tingle was always an overachiever when it came to saving money. She accumulated more than \$1 million by the time she retired at age 45 in 1991. By 2003 she had her 94-year-old mother move in with her as she was her mother's chief caretaker. Being her mother's "long-term care plan," Tingle was concerned about rising health care costs and was looking for a way to make more money.

When she met Maurice Michael McCant in 2007, he presented himself as a successful CEO of Billionaire Catt Entertainment, a rap concert promotion business, and promised to deliver more than 25 percent returns by investing in his company. After seeing these high returns on initial investments, she decided to liquidate her entire individual retirement account and other savings totaling \$1.3 million and invest with McCant. It was a disaster.

"For a little over a year, monies were coming in like they were supposed to and allowing me to sustain," Tingle told [CNBC's "American Greed."](#) "Then it was cut off and then I was just left there."

In total, McCant scammed 15 investors like Tingle out of their money. His take—more than \$2 million. In 2011, he was convicted of wire fraud and sent to prison for just under four years.

Tingle lost her hard-earned savings to McCant's scam but that was not all. Next, the IRS and the state of California's Franchise Tax Board demanded Tingle pay substantial tax penalties accrued because of cashing out her IRA, which McCant had promised to pay himself but of course he didn't.

"Even if I live to be as old as my mother, I will never be able to meet that tax bill obligation," said Tingle.

Tingle feels like she was victimized twice. But she is not alone in dealing with tax liabilities because of losses in financial scams.

According to the IRS, every year thousands of victims of financial scams and identity theft fraud deal with potential tax implications. However, these victims can claim a "casualty and theft loss" deduction on their tax return to offset some of the losses from the fraud, which is often decided "based on the case facts and circumstances" by the IRS or the state tax board.

Of the two federal and state tax bills that Tingle received, almost 85 percent of her federal tax liability was forgiven as it was considered a "theft loss."

"The state is not looking at it that way. So that bill continues to tick, tick, tick, tick, tick," added Tingle referring to the Franchise Tax Board.

Tingle's request for deductions via an amended tax return to the board was recently declined. The board was approached for an update for this article but refused to discuss any individual tax matters.

### Protections for Ponzi scheme victims

In the wake of Bernie Madoff's Ponzi scheme at the end of 2008 when thousands of investors lost more than \$60 billion, the IRS introduced guidance to relieve taxpayers suffering from losses because of financial fraud and Ponzi schemes.

"The provision to claim 'casualty and theft loss' deductions existed even before 2009, but the

introduction of [IRS Rev. Ruling 2009-9](#) made the process and eligibility criterion easy to understand for everyone," said Carlos Guaman, a California-based accountant. He represents taxpayers in disputes with the IRS.

*(Read more: [Beware of Bitcoin related Ponzi schemes, says SEC](#))*

Specifically, this ruling serves as a guide to whether an individual's specific loss because of investments in fraudulent Ponzi schemes qualifies for a theft loss deduction for tax purposes or not.

### **Protect your identity**

Identity theft and the resulting issuance of fraudulent tax refunds is also a [huge problem for the IRS](#) as well as a burden on taxpayers.

For the 2010 tax year, \$5 billion in tax refunds were issued by the IRS as a result of identity theft tax fraud according to a [report released by the U.S. Treasury Inspector General for Tax Administration](#). The report issued last year also estimates another \$21 billion will be issued in potentially fraudulent tax refunds resulting from identity theft over the next five years.

*(Read more: [American heroes: Fighting to protect their money](#))*

Identity thieves may use your Social Security number to be paid by an employer or to file a fraudulent tax return for refunds like in the case of California resident Daniel Ramirez who has been a victim of identity theft.

At the end of 2011, Ramirez started receiving statements for maxed-out new store credit cards. On realizing that somebody has stolen his identity, he took the necessary steps of [informing the credit bureaus](#) and [freezing his credit accounts](#) temporarily. While most people stop there, Ramirez went beyond that and even filed an [Identity Theft Affidavit, Form 14039](#) with the IRS envisioning potential tax fraud issues.

Yet, when Ramirez tried to file his tax return online in April 2012, the system refused to accept it. "The person who had stolen my identity filed the taxes before I could and they were claiming a refund of like \$10,000," said Ramirez.

But thanks to Ramirez's forward thinking and filing the identity theft affidavit, the IRS had flagged his account and stopped that refund from going to the identity thief. Even though it took a "number of follow-up calls to the IRS and a whole year to process," Ramirez eventually received his due refund earlier this year.

"It [identity theft] was one of the worst things ever, I wouldn't wish that on anybody," Ramirez recalled. "Dealing with the IRS, having to close fraud credit card accounts, cleaning all that mess up was very stressful."

*(Read more: [Could Obamacare be boon for identity thieves?](#))*

While the IRS provided us with data and other information for this article, a spokesperson declined to comment on any individual cases.

If worried about being at risk of identity theft:

1. Contact the [IRS Identity Protection Specialized Unit](#) at 1-800-908-4490
2. Order a [tax account transcript](#) from the IRS that verifies basic personal data along with details of your tax return filed, which may come in handy if you are checking to see whether someone else filed a fraudulent return on your behalf

The [Federal Trade Commission](#) also lists [several steps](#) you must take if you have been a victim of identity theft.

*This episode of "American Greed" airs Thursday, August 1 at 10p ET/PT on CNBC. Follow on Twitter [@AmericanGreedTV](#).*

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