

New York Pathologist's Estate Under Fire in First-Ever Unsealed *Qui Tam* Case

Posted on Jan. 23, 2018

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A pathologist's estate is being sued by a former administrator for alleged falsification of records, in New York's first-ever unsealed estate tax case brought under the False Claims Act.

"This is the first-ever unsealed estate tax *qui tam* case," Adam Pollock, who represents the whistleblower in this case, told Tax Analysts January 22. [The complaint](#) was made public January 19 and has Doreen Light, a former employee at University Pathology PC, accusing the estate of her former employer, Dr. Myron Melamed, of defrauding the state of New York under its whistleblower statute. "Under the unique provisions of New York's *qui tam* law, Ms. Light is blowing the whistle on the doctor's estate tax fraud," Pollock said.

Timothy Noonan, a tax attorney at Hodgson Russ LLP and a frequent writer on New York state and local tax law, agreed that the case is unique. "I think this is the first case of its kind, at least that's been published, where someone sued an estate on a residency-related claim," Noonan said. Peter Faber, who handles False Claim Act cases at McDermott Will & Emery, said it was the first one he's come across involving estate taxes. "In that sense it's unusual, although there is no reason why claims shouldn't be brought under the estate tax law," Faber said. "It's a tax just like any other tax."

According to the complaint, Melamed and his two children went to great lengths to falsify records showing the pathologist was a Florida resident and was domiciled in Boca Raton, Florida, at the time of his death in September 2013. Unlike New York, Florida did away with its estate tax starting January 1, 2005.

Melamed's estate was valued at about \$15.1 million at the time of his death and would have owed New York at least \$1.77 million in estate taxes. Light claims that Melamed's scheme began in 2008, following a meeting with his accountants, who told him that he could save as much as \$1.5 million in New York estate taxes if he moved his domicile to Florida, where he owns a house. The complaint also states that Melamed's two children were complicit in their father's actions with the hope of inheriting a larger amount following their father's death.

Despite owning a home in Florida, Melamed did not retire there and continued to work in New York, while also living in Connecticut for a brief stint after the sale of his New York house in 2013, according to the complaint. But continued health problems forced the pathologist back to New York for treatment.

Light filed the lawsuit in 2014 and presented the case to the New York attorney general's office, which did not intervene in the case. Amy Spitalnick, press secretary at the attorney general's office, told Tax Analysts the office does not comment on why it doesn't intervene, "particularly

in tax cases where the reasons may be subject to tax secrecy.”

Faber said the attorney general’s office can decline to intervene for a variety of reasons. “It could mean that the attorney general decided the case has no merit,” he said, adding that the office could have declined to intervene because of limited resources or bigger targets. “They have a small staff and don’t have too many people devoted to tax cases,” Faber said.

Pollack, however, does not consider it problematic that the attorney general didn’t intervene, saying the case is meritorious. “As alleged in the amended complaint, the fraud here is stark and the doctor’s weak attempts to cover it up won’t survive the scrutiny that justice will bring to bear,” he said.

Noonan, however, sees some problems for the suit. “I do have some concerns about false claims cases generally in the residency area, especially where the issue involves the subjective domicile test,” he said, explaining that domicile is a “highly factual inquiry into a person’s actions and intentions.” State estate tax imposition is based on domicile and not just residency, and testimony is often a key element there, according to Noonan, who has [written on this subject](#) in a recent edition of *State Tax Notes*.

“Obviously, the decedent here can’t testify, making it difficult for the estate to defend the action,” Noonan said. “Of course, on the other hand, since the relator presumably bears the burden of proof, it might be hard for her to prove her case without having any evidence of the taxpayer’s actual intentions.”