IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA **v.** **JUSTIN RYAN SCHMIDT,** **Defendant.**	**Case No. 1:26-CR-94-RP**

GOVERNMENT'S SENTENCING MEMORANDUM

Justin Schmidt "quit the United States." Order at 3, ECF No. 34. Before he renounced his U.S. citizenship in March 2022, Schmidt "embarked on a deliberately deceitful plan to maximize his personal wealth at the expense of his obligations to the United States, including income taxes, sale of real estate and representations to financial institutions." Order at 1, ECF No. 20. He reported earning $5,000 or less each year when he knew he was earning millions of dollars managing a hedge fund. On his way out the door, he was required to pay an exit tax on the wealth he accrued as a U.S. citizen. Instead, he falsely told the IRS he had a net worth of $25,000 and avoided the exit tax entirely. Even after he pocketed millions of dollars in unpaid taxes from his false personal tax returns and expatriation, Schmidt was not finished defrauding his former country. In 2023, as an alien, he bought a property in Snowmass Village for $5.8 million and sold it three months later for $9 million. PSR ¶ 12. He pretended to be an American—once it was convenient to avoid tax withholding requirements on aliens—and then never paid taxes on the gains he earned from selling his American real estate.

Justin Schmidt deliberately and deceitfully defrauded the United States en route to amassing a multi-million-dollar net worth. And because of that fraud, Schmidt has earned every minute of a guidelines sentence to 37 months' incarceration.

I. PROCEDURAL BACKGROUND

On February 17, 2026, the grand jury returned an indictment charging Schmidt with four counts of filing false tax returns, in violation of 26 U.S.C. § 7206(1); one count of tax evasion, in violation of 26 U.S.C. § 7201; and three counts of failure to file an FBAR, in violation of 31 U.S.C. §§ 5314, 5322(a).

On February 23, Special Agents with Internal Revenue Service ("IRS") Criminal Investigations ("IRS-CI") took Schmidt into custody.

On April 20, Schmidt pled guilty to Count Five of the Indictment, charging him with tax evasion, pursuant to a written plea agreement before United States Magistrate Judge Susan Hightower. On May 15, United States District Judge Robert Pitman accepted Schmidt's guilty plea.

The Court originally set Schmidt's sentencing hearing for September 18. The Court then granted Schmidt's request to expedite sentencing and reset the hearing for July 27.

Schmidt has remained in custody since his arrest. By the time of his sentencing hearing on July 27, he will have served approximately five months in custody.

II. FACTUAL BACKGROUND

In his Plea Agreement, Schmidt admits to the pertinent facts that support his conviction. ECF No. 29 at 3–5. The Presentence Investigation Report ("PSR") also accurately recounts the relevant facts related to the offense conduct. PSR ¶¶ 4–18. As to the factual allegations in those paragraphs, Schmidt only objects to the calculation of tax loss as set forth in paragraph 17. Since the PSR was finalized, the government has met with defense counsel and both parties agree that the tax loss in this case is $2,825,639, as further broken down in the restitution section later in this memorandum. Thus, the material facts in this case are uncontested.

Schmidt was born a United States citizen in Houston, Texas, and later graduated from the University of Texas. PSR ¶¶ 7, 51. In October 2017, Schmidt organized and founded Translunar Crypto LP ("Translunar"),[1] a hedge fund that focused on cryptocurrency investments. *Id.* ¶¶ 8–9.

Between 2019 and February 2022, Schmidt earned at least $7.1 million from performance allocations and management fees related to Translunar. *See* Plea Agmt., Dkt. No. 29 at 3. During this same period, Schmidt filed false U.S. personal income tax returns for 2020, 2021, and 2022. On his 2020 tax return, Schmidt reported total income of -$8,841; on his 2021 tax return, he reported a total income of $0; and on his 2022 tax return, he reported a total income of $5,000. PSR ¶ 13.

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[1] The organizational structure is somewhat complicated and consists of multiple similarly named entities. The government refers to the entities collectively as "Translunar."

Schmidt's false tax returns posed a problem when he attempted to apply for a bank loan. The bank required Schmidt to submit his personal tax returns to show his income, and the minimal income he reported on his tax returns would not qualify him for a large loan. Schmidt submitted fabricated 2019 and 2020 personal income tax returns that reported over $2.7 million in total income each year. PSR ¶ 14.

In March 2022, Schmidt officially renounced his U.S. citizenship and expatriated to the Cayman Islands as a British Overseas citizen. *Id.* ¶ 7. As part of that process, Schmidt was required to file a tax return that reported his net worth on the date of expatriation. *Id.* ¶ 15. In April 2023, Schmidt reported a net worth of $25,000. But at that time, Schmidt had over $2.6 million in one UBS bank account alone. *Id.*

Throughout this time period, Schmidt was required to file Reports of Foreign Bank and Financial Accounts ("FBARs") that disclosed his offshore bank accounts. Schmidt knew he had to disclose his offshore bank accounts. See Plea Agmt., Dkt. No. 29 at 5. But Schmidt failed to do so. Schmidt's offshore bank account ending in 5668 had a high balance in 2019 of approximately $100,000, in 2020 of approximately $1.4 million, in 2021 of approximately $5 million, and in January 2022 of approximately $1.8 million. *Id.*

In 2023, after Schmidt renounced his U.S. citizenship and expatriated to the Caymans, he purchased real property in Snowmass Village, Colorado, for approximately $5.8 million. *Id. at 4.* Three months later, he sold that property for approximately $9 million. *Id.* Because Schmidt was a foreign person, the purchaser of the real property was required to withhold 15% to ensure Schmidt paid taxes on the sale. To avoid that withholding requirement, Schmidt provided a Texas driver's license to the title company, pretending to be a Texas resident. Consequently, Schmidt never paid taxes on the sale of the Snowmass Village property. As Schmidt knew, not only was he not a Texas resident, but the driver's license reported an address that corresponded to a private P.O. Box, not a residential home. PSR ¶ 12.

Schmidt enjoyed his wealth. In the four months before his arrest, Schmidt flew at least nine times by private jet entering or leaving the United States, typically leaving from or returning to the Cayman Islands. *See* Gov't Exh. 23, Det. Hr'g (Feb. 27, 2026).

III. SENTENCING GUIDELINES

The United States Probation Office calculated the offense level as 19.

Count Five, 26 U.S.C. § 7201:

U.S.S.G. § 2T4.1(I) Base Offense Level		22
U.S.S.G. § 2T1.1(b)(2) Sophisticated Means		+2
U.S.S.G. § 3E1.1 Acceptance of Responsibility		-3
U.S.S.G. § 4C1.1 Zero-Point Offender		-2
	Total	**19**

The United States Probation Office then calculated a criminal history score of zero, placing Schmidt in criminal history category I.

The Guideline range for Schmidt based on these calculations is 30 to 37 months' incarceration. The government concurs with the United States Probation Office's calculation.

Schmidt objects to the application of the two-point enhancement for sophisticated means. His objection is meritless.

Schmidt's criminal conduct qualifies for the sophisticated means enhancement. "Sophisticated means" is explicitly defined in the guidelines as "especially complex or especially intricate offense conduct pertaining to the execution or concealment of an offense. Conduct such as hiding assets or transactions, or both, through the use of fictitious entities, corporate shells, or *offshore financial accounts* ordinarily indicates sophisticated means." U.S.S.G. § 2T1.1 cmt. 5. (emphasis added). "Although tax offenses always involve some planning, unusually sophisticated efforts to conceal the offense decrease the likelihood of detection and therefore warrant an additional sanction for deterrence purposes." *Id.* cmt. background.

1. The Court can and should consider relevant conduct when evaluating the applicability of the two-point enhancement for sophisticated means.

Schmidt argues that the Court can only apply the sophisticated means enhancement if the narrow offense of conviction involved sophisticated means. The distinction Schmidt appears to be making is between (a) the conduct related to Count Five, such as the evasion of taxes owed on the sale of the Snowmass Village property; and (b) the relevant conduct, such as the filing of false returns in Counts One to Four. In Schmidt's view, the Court can consider (a) but not (b) when determining whether to apply the two-point enhancement for sophisticated means.

This is incorrect. The Court can consider all relevant conduct when determining whether to apply the two-point enhancement for sophisticated means.

U.S.S.G. § 1B1.3(a). Relevant conduct includes "all acts and omissions . . . that were part of the same course of conduct or common scheme or plan as the offense of conviction" if the related offense conduct "would require grouping of multiple counts." *Id.* § 1B1.3(a)(2). "Application of this provision does not require the defendant, in fact, to have been convicted of multiple counts." *Id.* (Application Note 5). For multiple offenses to be considered as a "common scheme or plan" the Court should consider "common victims, common accomplices, common purpose, or similar modus operandi." *Id.* Here, Counts One to Five share the same victim—the IRS—and the same purpose—to enrich himself by avoiding paying taxes.

But the Court need not rely on the government's interpretation of § 1B1.3(a) because the specific guideline for tax offenses makes clear that "all conduct violating the tax laws should be considered as part of the same course of conduct or common scheme or plan unless the evidence demonstrates that the conduct is clearly unrelated." U.S.S.G. § 2T1.1 (Application Note 2). Thus, the Court can consider all conduct violating the tax laws—i.e., all conduct related to Counts One to Five—when determining the applicability of the two-point enhancement for sophisticated means. *See United States v. Schreiber*, 2000 WL 191853 at *2 (6th Cir. Feb. 10, 2000) (rejecting defendant's argument that the sophisticated means enhancement consideration was limited to only the count of conviction but also included other tax charges).

The facts at the core of the government's argument, *i.e.*, the relevant conduct, are uncontested. Schmidt admitted that he earned over $7 million between 2019 and

February 2022. PSR ¶ 9; ECF No. 29 at 3. He admitted he failed to report that income on his 2019 through 2022 federal income tax returns. PSR ¶ 10; ECF No. 29 at 4. He admitted that he stored large sums of money in offshore bank accounts throughout this same period. PSR ¶ 16; ECF No. 29 at 5 (admitting in the plea agreement that one of his offshore bank accounts "had a high balance in 2019 of approximately $100,000, in 2020 of approximately $1.4 million, in 2021 of approximately $5 million, and in January 2022 of approximately $1.8 million").

Moreover, Schmidt necessarily admitted that the Court can consider the above relevant conduct—earning large sums of money and filing false tax returns—when determining his applicable guidelines calculation. This is because Schmidt admitted the total tax loss is between $1.5 million and $3.5 million, even though the loss from Count Five alone is only $809,583. The only way Schmidt's tax loss rises above $1.5 million is if the Court can consider the tax loss from Counts One to Four in determining the applicable guidelines calculation. Courts routinely consider tax loss from tax years for which a defendant was not convicted. *See, e.g.*, *United States v. Bolton*, 908 F.3d 75, 95 (5th Cir. 2018) ("The district court may include tax losses in the total loss computation that qualify as relevant conduct under U.S.S.G. § 1B1.3, whether charged or not.").

It strains credulity to now argue, after admitting the Court can rely on relevant conduct to calculate tax loss, that the Court must ignore relevant conduct to determine the applicability of the two-point enhancement for sophisticated means.[2] Just as the tax loss would be properly treated as relevant conduct, so too does the conduct from those years support the sophisticated means enhancement.

Schmidt persists nonetheless and relies on *United States v. Stokes*, 998 F.2d 279 (5th Cir. 1993). But *Stokes* cannot bear the weight of Schmidt's argument. In *Stokes*, the sentencing court incorrectly applied the sophisticated means enhancement in a tax fraud case by pointing to the sophistication of the defendant's *embezzlement* scheme, in which the defendant concealed her embezzlement from her employer. *Stokes*, 998 F.2d at 282 ("Any sophisticated means that Stokes employed to hide the money that she took from [her employer] occurred in her scheme to embezzle from [her employer]. It did not involve the evasion of taxes, the offense for which Stokes was convicted."). Here, there was no embezzlement scheme. Schmidt was not trying to hide money from his employer—*he* was his employer. Rather, Schmidt was attempting to hide his money from the United States. This is not *Stokes*, where the defendant "simply [did] not disclos[e] income to [her] accountant." *Id.* Schmidt failed to report income that he earned from offshore investments, PSR ¶ 11, and concealed his wealth by keeping it in offshore bank accounts.

With relevant conduct, the applicability of the two-point enhancement for sophisticated means is straightforward. "Sophisticated means" is explicitly defined in the guidelines as "especially complex or especially intricate offense conduct

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[2] This Court encountered this same argument at the sentencing of Frank Ahglren, Case No. 1:24-cr-00031-RP. *See* ECF No. 40, Government's Sentencing Memo. at 11-14. This Court applied the sophisticated means enhancement as to Ahlgren.

pertaining to the execution or concealment of an offense. Conduct such as hiding assets or transactions, or both, through the use of fictitious entities, corporate shells, or *offshore financial accounts* ordinarily indicates sophisticated means." U.S.S.G. § 2T1.1 cmt. 5. (emphasis added).

Schmidt hid his wealth in offshore bank accounts, investments, and businesses which made it more difficult for the IRS to detect his income and collect the taxes he owed to the IRS. Schmidt had interests in and control over investment companies located in the Cayman Islands, in particular Cayman Property Group Limited and Cayman Property Investments Limited. PSR ¶ 11. Those investment companies appeared to operate between September 6, 2018, and through at least 2023. They owned several pieces of property in the Cayman Islands worth approximately $14 million and received income. *Id.* Likewise, Schmidt partially owned the Aspen property he sold in 2022 through a foreign investment company.[3] Schmidt also had several overseas accounts that had substantial balances that he appeared to use to receive income and for investment purposes. Schmidt filed false income tax returns (Counts One to Three) and a false expatriation return (Count Four) by not including those foreign investments and accounts and any earnings from them. By doing so,

[3] This is a different property than the property that serves as the basis for Count Five. The Aspen property was listed in the name of Justin Schmidt on the deed, but a U.S.-based corporation purported to own the property and the U.S.-based corporation paid taxes on the profits from the sale. The profits then flowed to the foreign investment company that owned the U.S.-based corporation. Schmidt had an ownership interest in the foreign investment company and may have received dividends or a distribution. Given the sophisticated structuring of the entities, it is difficult to determine how or whether Schmidt eventually received income from the sale of the Aspen property.

Schmidt hid his assets, transactions, and income from the IRS such that the sophisticated means enhancement is warranted. *See United States v. Hammes,* 3 F.3d 1081, 1083 (8th Cir. 1993) (finding sophisticated means enhancement applied where, among other things, the defendant had substantial bank accounts in the Grand Cayman Islands, Switzerland, and the Mariana Islands).

2. Even if the Court narrowly considers the offense of conviction, the two-point enhancement for sophisticated means applies.

The offense conduct related to Count Five alone is enough to apply the sophisticated means enhancement.

As Schmidt admits in his plea to Count Five, he was required to pay taxes on the sale of the Snowmass Village Property. ECF No. 29 at 4. When a U.S. citizen sells real property, the buyer is not required to withhold taxes on the sale. But when an alien, who otherwise would not file an income tax return in the United States, sells real property in the United States, the buyer is required to withhold 15 percent of the amount realized on the sale and provide that to the United States. Thus, Schmidt was incentivized to make it seem like a U.S. citizen was purchasing the property so he could avoid the 15 percent withholding requirement and never pay taxes on the sale of the property.

Two relevant pieces of evidence helped Schmidt accomplish this goal. First, he purchased the Snowmass Village property using an entity named Havens One LLC. Schmidt founded the entity in Colorado with a principal address in Texas. It appeared to be a U.S. entity. But Schmidt was the sole owner of the LLC, making it a "disregarded entity." In essence, Havens One LLC was a corporate shell for

Schmidt. But when Schmidt purchased the Snowmass Village Property, he lied and claimed Havens One LLC was not a disregarded entity and the sale was not subject to the 15 percent withholding requirement. He admitted as much in his plea agreement. ECF No. 29 at 4.

Second, although Schmidt included his name on some of the sale documents, he "falsely claimed that the seller of the property was not a foreign person for purposes of U.S. income taxation." *Id.* at 5. In support of this lie, he provided a Real ID Texas driver's license. The license listed an address corresponding to a private P.O. Box, not a residential home. In essence, he pretended to be a Texas resident using a fictitious residence.

After Schmidt successfully defrauded the buyer of the Snowmass Village Property into believing Schmidt was a U.S. citizen who was not subject to withholding, he received the proceeds of the sale into an offshore bank account. He admitted as much in his objections to the PSR. Def. Obj. at 9 (admitting "the wire of the proceeds from sale of the property in question it [sic] went to an offshore account").

In sum, the offense conduct for Count Five involved using a corporate shell and a fictitious residential address to evade taxes and then hiding the ill-gotten gains in an offshore bank account. *Cf.* U.S.S.G. § 2T1.1 cmt. 5 ("Conduct such as hiding assets or transactions, or both, through the use of fictitious entities, corporate shells, or offshore financial accounts ordinarily indicates sophisticated means.").

That is sophisticated means.

IV. 18 USC § 3553(a) SENTENCING FACTORS

The Court must consider the § 3553(a) factors in fashioning a sentence that is sufficient, but not greater than necessary, to achieve the goals of sentencing. In this case, the nature and circumstances of the offense, the history and characteristics of Schmidt, the need for general and specific deterrence, and the need to avoid unwarranted sentencing disparities all call for a substantial term of imprisonment. None of the factors in Section 3553(a) warrant a variance below the guidelines range.

A. Nature and Circumstances of the Offense

The nature and circumstances of the offense weigh heavily in favor of a substantial sentence. This is not a case involving a momentary lapse in judgment, an aggressive but arguable tax position, or a defendant led astray by others. Rather, Schmidt engaged in a lengthy and deliberate pattern of overwhelmingly willful fraud.

He lied to the IRS. Between 2019 and 2022, Schmidt filed personal income tax returns reporting to the IRS that he earned $5,000 or less every year. In 2023, he failed to file a return at all. In total, Schmidt failed to report $10.9 million in income between 2019 and 2023, causing a $2.8 million loss to the United States. To top it off, when Schmidt renounced his U.S. citizenship in 2022, he falsely claimed to the IRS that his net worth was $25,000 so he could avoid an exit tax on his wealth.

He lied to the banks. When Schmidt needed a bank loan, he had to provide documentation corroborating his income. So Schmidt fabricated 2019 and 2020 personal income tax returns that reported over $2.7 million in income each year.

He lied to the real estate titling company. To avoid certain tax withholding requirements when he sold real estate property and earned $2.2 million profit, Schmidt pretended to be a United States citizen and presented a Texas driver's license. Schmidt knew he had renounced his U.S. citizenship the year prior.

He lied to the state of Texas. When he obtained that Texas driver's license, he claimed to live at a residence in Lakeway, Texas. But that address corresponds to a private P.O. Box.

These lies were blatant and egregious. Schmidt received and enjoyed the benefits of this country. But when he started earning real money, Schmidt lied time and time again to avoid paying his obligations and fled to the Cayman Islands.

B. The History and Characteristics of Schmidt

Nothing in Schmidt's history mitigates his culpability in this case. He "was provided for as a child" and maintains a "positive relationship" with his parents and brother. PSR ¶ 43. He received a Bachelor of Economics from the University of Texas, at Austin. *Id.* ¶ 51. This is not a criminal case where a defendant is led into criminal conduct by his personal circumstances or upbringing. Schmidt was given every advantage in life and *chose* to commit fraud. Criminals like Schmidt who have the "education and training that enables people to make a decent living without resorting to crime are more rather than less culpable than their desperately poor and deprived brethren in crime." *United States v. Stefonek*, 179 F.3d 1030, 1038 (7th Cir. 1999).

C. Reflecting the Seriousness of the Offense

18 U.S.C. § 3553(a)(2)(a) directs a sentencing court to consider the need for the sentence to reflect the seriousness of the offense. In this case, Schmidt is responsible for over $2.8 million in losses to the United States. This figure alone is patently serious and calls for a commensurate sentence.

The Guidelines recognize that "[t]ax offenses, in and of themselves, are serious offenses." U.S.S.G. § 2T1.1. Schmidt's crimes are serious because they harmed every honest, taxpaying citizen. Our nation's system of tax laws relies on the voluntary compliance of individual taxpayers to accurately report their income. Unfortunately, IRS studies reveal that a substantial portion of the population does not comply with their obligation to accurately report their income. IRS, *Tax Gap Projections for Tax Year 2022*, Publication 5869 (Rev. 10-2024), *available at* https://www.irs.gov/pub/irs-pdf/p5869.pdf. The result is an annual gap of $606 billion in unreported and uncollected taxes that honest taxpayers must shoulder in the form of reduced services, increased taxes, or both. Schmidt exacerbated this problem by repeatedly filing false income tax returns that underreported his income by millions of dollars.

D. Need for General Deterrence

Those who commit tax crimes and other white-collar offenses "may be particularly susceptible to general deterrence because '[d]efendants in white-collar crimes often calculate the financial gain and risk of loss, and white-collar crime therefore can be affected and reduced with serious punishment.'" *United States v.*

Sample, 901 F.3d 1196, 1200 (10th Cir. 2018) (quoting *United States v. Kulhman*, 711 F.3d 1321, 1329 (11th Cir. 2013)). Indeed, in committing such crimes, white-collar defendants "act rationally, calculating and comparing the risks and rewards before deciding whether to engage in criminal activity." *United States v. Brown*, 880 F.3d 399, 405 (7th Cir. 2018).

By sentencing Schmidt to 37 months of imprisonment, the Court would send a clear message to other similarly situated would-be tax evaders that they need to consider whether going to prison is worth the risk of making some extra money by falsifying tax returns. Schmidt's calculated decision-making demonstrates the message would be well-received. *See United States v. Martin,* 455 F.3d 1227, 1240 (11th Cir. 2006) ("Because economic and fraud-based crimes are more rational, cool, and calculated than sudden crimes of passion or opportunity, these crimes are prime candidates for general deterrence."); *see also United Statesv. Snipes*, 611 F.3d 855, 872 (11th Cir. 2010); *United States v. Burgos*, 276 F.3d 1284, 1289 n.6 (11th Cir. 2001) ("For a judge sentencing a defendant convicted of tax evasion, the chief concern may be general deterrence.").

Criminal prosecutions to curtail noncompliance and outright tax fraud are also relatively scarce, reflecting the limited availability of resources necessary to conduct and prosecute such cases. "Because of the limited number of criminal tax prosecutions relative to the estimated incidence of such violations," the United States Sentencing Commission has stressed that "deterring others from violating the tax laws is a primary consideration underlying" the Sentencing Guidelines. U.S.S.G. Ch. 2, Pt. T, intro. comment.

This case illustrates the point. Schmidt's underreporting went undetected for years. It is simply not feasible for IRS-Criminal Investigation to spend the time and resources to investigate every taxpayer who might not be reporting their full income.

Therefore, the sentence imposed in this case must provide sufficient punishment in order to deter other would-be tax evaders. *Id.* ("Recognition that the sentence for a criminal tax case will be commensurate with the gravity of the offense should act as a deterrent to would-be violators."). A term of imprisonment is often necessary in order to achieve such a deterrent effect, given the limited number of tax prosecutions relative to their incidence. *See generally* Louis Kaplow & Steven Shavell, *Fairness Versus Welfare*, 114 Harv. L. Rev. 961, 1225–1303 (2001). The Fourth Circuit recognized this principle in a tax evasion case:

> Given the nature and number of tax evasion offenses as compared to the relatively infrequent prosecution of those offenses, we believe that the Commission's focus on incarceration as a means of third-party deterrence is wise. The vast majority of such crimes go unpunished, if not undetected. Without a real possibility of imprisonment, there would be little incentive for a wavering would-be evader to choose the straight-and-narrow over the wayward path.

United States v. Engle, 592 F.3d 495, 501 (4th Cir. 2010). And indeed, "[s]tudies have shown that salient examples of tax-enforcement actions against specific taxpayers, especially those that involve criminal sanctions, have a significant and positive deterrent effect." Joshua D. Blank, *In Defense of Individual Tax Privacy*, 61 Emory L.J. 265, 321 (2011).

E. Need for Specific Deterrence

The need for specific deterrence to prevent this particular Defendant from committing tax fraud or any other type of fraud in the future is paramount. Schmidt has consistently demonstrated that he will continue to abuse the federal tax system for his own gain. Schmidt's actions were not an isolated event, nor can they be explained by circumstance. Schmidt engaged in a years-long scheme to defraud the IRS. Aside from his lies to the IRS, he also lied to banks, a real estate titling company, and the state of Texas. The only thing that might cause Schmidt to stop committing fraud is a significant sentence of imprisonment.

To that point, even Schmidt's arrest did not deter his impulse to lie for his own benefit. Before his detention hearing, Schmidt told the probation office that he was single, he lived in Aspen, and his mother lived in Texas. He now admits he is married to "a British citizen who resides in the Cayman Islands," PSR ¶ 46, that "[p]rior to the instant offense, the defendant was residing in the Cayman Islands with his wife," *id.* ¶ 42, and "that his mother and stepfather were residing in the Cayman Islands," *id.* ¶ 43.

Schmidt then pled guilty and, in his plea agreement, agreed to be truthful to the probation office. ECF No. 29 at 8–9. When interviewed, Schmidt dramatically underreported his financial assets, and consequently, led the probation office to believe he had a net worth of *negative* $1,148,000.[4] The government raised concerns

[4] Schmidt's plea agreement gives the government the right to oppose a downward adjustment for acceptance of responsibility if Schmidt "provides false or misleading

(continued...)

to defense counsel about this representation, and now Schmidt admits his net worth is at least $5.8 million. *See* Def. Obj. to PSR at 4. The probation office determined his net worth was even higher—$6.8 million. PSR ¶ 56.

F. Need to Avoid Unwarranted Sentencing Disparities

The government found several tax evasion and false return cases assigned to this Court over the last ten years. The government could glean certain relevant facts from the docket in each case.

In *United States v. Petrone*, 24-CR-44-RP (W.D. Tex.), the defendant pled guilty pre-indictment to one count of tax evasion, in violation of 26 U.S.C. § 7201. The government filed a publicly available sentencing memo. *Id.* (ECF No. 22). Petrone caused a tax loss of $529,551 and received a total offense level of 15 and criminal history category IV, resulting in a guidelines range of 30-37 months—the same guidelines range as Schmidt. This Court sentenced Petrone to 37 months' imprisonment, which is the same sentence the government seeks here.

In *United States v. Ahlgren,* 24-CR-31-RP (W.D. Tex.), the defendant pled guilty post-indictment to one count of filing a false tax return, in violation of 26 U.S.C. § 7206(1). The government filed a publicly available sentencing memo. *Id.* (ECF No. 40). Ahlgren caused a tax loss of $1,095,031, had committed the offense using sophisticated means, and received a total offense level of 17 and criminal

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statements to the Court [or] the Probation Office." ECF No. 29 at 8–9. Because the government was not present during this conversation, it is not opposing Schmidt's downward adjustment for acceptance of responsibility. But the conduct is still relevant in sentencing Schmidt to the top of the resulting guidelines range.

history category I, resulting in a guidelines range of 24-30 months. This Court sentenced Ahlgren to 24 months' imprisonment.

In *United States v. Jones*, 21-CR-230-RP (W.D. Tex.), the defendant pled guilty pre-indictment to one count of bank fraud, in violation of 18 U.S.C. § 1344, and one count of tax evasion, in violation of 26 U.S.C. § 7201. This Court sentenced the defendant to 51 months' imprisonment and $961,576 restitution. This case is likely distinguishable on the facts, but the government notes that this Court sentenced Jones to 51 months' incarceration even though the restitution amount was relatively low compared to Schmidt's restitution amount.

In *United States v. Falduto*, 24-CR-7-RP (W.D. Tex.), the defendant pled guilty pre-indictment to a single count of tax evasion, in violation of 26 U.S.C. § 7201. This Court sentenced the defendant to 18 months' imprisonment and $399,597 restitution. Given the relatively low restitution amount, the government infers that Falduto's tax loss was much lower than Schmidt's, which explains the lower sentence.

In *United States v. Calabrese*, 19-CR-53-RP (W.D. Tex.), the defendant pled guilty pre-indictment to a single count of tax evasion, in violation of 26 U.S.C. § 7201. This Court sentenced the defendant to 18 months' imprisonment and $529,137 restitution. Given the relatively low restitution amount, the government infers that Calabrese's tax loss was much lower than Schmidt's, which explains the lower sentence.

V. RESTITUTION

Pursuant to the plea agreement, Schmidt has agreed to pay restitution to the IRS. ECF No. 29 at 9–11. He agreed that the amount is between $1.5 million and $3.5 million, but that the specific amount would be determined by the court at sentencing. *Id.* at 9. He further agreed to pay Title 26 interest on the restitution amount. *Id.*

Schmidt agrees that he owes restitution to the IRS in the following amounts for his personal income tax returns:

Tax Year	Tax Loss
2019	$77,647
2020	$63,424
2021	$1,168,035
2022	$706,950
2023	$809,583
Total	**$2,825,639**

Schmidt owes a total of $2,825,639 in restitution to the IRS. He further owes Title 26 interest on this amount. The government will provide the Title 26 interest calculation at the sentencing hearing.

VI. CONCLUSION

For the reasons set forth above, the government recommends the Court sentence Schmidt to 37 months' imprisonment.

Respectfully submitted,

A. TYSEN DUVA
ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION

DATE: July 22, 2026 By: ______________________________

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CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2026, the undersigned electronically filed the foregoing document with the Clerk of the Court using CM/ECF which automatically notifies all counsel of record.

By: ______________________________

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