Ex-Mobil executive loses offshore tax fight with IRS

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* Ex-Mobil executive Williams loses foreign accounts case
* Ruling a key test of penalties on offshore account reports

By Lynnley Browning

July 23 (Reuters) - Legal pressure on offshore tax evaders increased with a court ruling that enforced penalties against a former senior Mobil Oil Corp executive who hid foreign bank accounts holding more than $7 million from U.S. tax authorities.

In a decision on Friday in favor of the U.S. Internal Revenue Service (IRS), the Fourth Circuit Court of Appeals in Richmond, Virginia, ruled against Bryan Williams, a senior executive at Mobil in the 1980s and 1990s, who concealed the money in two Swiss offshore accounts at Credit Agricole Indosuez, a French bank, over 1993-2000, court documents show.

Tax lawyers have had their eyes on the case as a test of how the courts will gauge the culpability of U.S. taxpayers who knew they needed to disclose their foreign accounts on special forms known as Foreign Bank and Financial Accounts reports, or Fbars, but intentionally did not.

"It has been closely watched because it is the first recent decision by a circuit to come down on the question of Fbar willfulness," said Caroline Rule, a tax lawyer at Kostelanetz & Fink in New York.

While the Fbar reporting requirement has been around for decades, the IRS only recently began enforcing it during a broad investigation of offshore tax evasion through Swiss and other foreign banks. Prosecutors suspect tens of thousands of Americans have not filed the forms, and dozens of American clients of foreign banks who did not file them have been indicted in recent years.

The ruling reversed a 2010 district court ruling in favor of Williams. That prior decision, by a federal judge in Alexandria, Virginia, was a defeat for the IRS and its crackdown on offshore tax evasion through Swiss and Swiss-style banks.

In the most recent decision, two judges on the three-judge appeals panel ruled against Williams, while the third upheld the prior ruling in Williams' favor.

In 2003, Williams pleaded guilty to separate criminal charges of fraud and conspiracy brought by the Justice Department in connection with the accounts. He was sentenced to 46 months in prison and agreed to pay back taxes and interest. He admitted he had received from an unidentified merchant bank $2 million in covert payments for helping Mobil buy a stake in the vast Tengiz oil field in Kazakhstan in 1996, court papers show.

Given his 2003 admission and conviction, the two appeals court judges wrote, "Williams cannot now claim that he was unaware of, inadvertently ignored, or otherwise lacked the motivation to willfully disregard the Fbar reporting requirement."

Under Treasury Department rules, willful failure to file Fbars triggers penalties of $100,000 per instance or 50 percent of the amount in the account for each year of violation. The latter penalty can leave a taxpayer owing more than is in the account. The penalties are in addition to back taxes and interest owed.

By contrast, non-willful, or accidental, failure to file an Fbar triggers softer penalties of $10,000 for each instance.

Taxpayers with foreign accounts must file Fbars by June 30 if their accounts held more than $10,000 in the preceding year. The filing requirement is in addition to a separate requirement that taxpayers check a "yes" or "no" box on their federal income tax returns as to whether they have interests in financial accounts in foreign countries.

Tax lawyers representing wealthy U.S. clients in disputes with the IRS say some clients have simply not known about Fbars, but the IRS says not knowing and not reading the fine print on tax forms can be a form of "willful blindness" that triggers the penalties.

Mobil, now Exxon Mobil, was bought by Exxon in 1999. At the time of his indictment, Williams was in charge of the company's oil trading operations in Russia and Kazakhstan.

He filed all the required Fbars only in 2007.

In 2009, the IRS sued Williams to force him to pay penalties for failing to file Fbars for 2000 on time. The agency was seeking two $100,000 fines for the year 2000. The agency could not collect Fbar penalties for earlier years due to statute of limitations rules.

His foreign accounts, held in the name of ALQI Holdings LTD, an entity in the Caribbean offshore tax haven of the British Virgin Islands, earned $800,000 in income a year, court papers show.