

# The METROWEST DAILY NEWS

**MetroWest Daily News**

**Sanchez: Taxes and the illegal immigrant**

**By Carol Sanchez - Guest Columnist**

**Sunday, June 11, 2006**

As a certified public accountant I help my clients organize their financial affairs and meet their tax obligations, while scrupulously observing state and federal law. From that perspective I view what has become an ongoing and increasingly rancorous debate regarding illegal immigrants.

Emotions and legal interpretations aside, the topic is complex and filled with ambiguity. Population estimates regarding illegal immigrants living in the US range upwards of 11 million people. They represent uncounted billions in earnings and proportionate amounts of taxes, both paid and unpaid.

I cannot comment with any authority on immigration law, but even a casual examination of illegal immigrants and taxation sheds new light on the debate.

First, there is a popular misconception that illegal immigrants work largely off the books and as a result generally avoid taxation of any kind. But is such conjecture fact or supposition?

Consider: Whether owning or renting the place in which they live, illegal immigrants must pay property taxes as part of a mortgage or lease.

When shopping they pay sales tax; effectively there is no way to avoid the five percent state levy imposed on virtually everything we buy in Massachusetts with the exception of clothing, professional services and food for home consumption.

Everyone who drives in Massachusetts pays substantial gasoline taxes along with registry fees, excise taxes and tolls, which by any other name are "use taxes."

None of this is offered in defense of illegal immigration. But it is notable that without even touching on issues like Social Security, income and capital gains taxes the illegal immigrant community is a substantial source of tax revenue at every level of government. Just how substantial we shall see in a moment.

At the heart of this discussion are the payroll tax and the many illegal immigrants who work as "W2" employees with fake Social Security numbers. By law employers are required to "view and keep a copy" of documents like Social Security cards, driver's licenses, and permanent residency cards.

However, under current law employers are not required to verify the validity of Social Security information or other documents.

The federal Immigration and Customs Enforcement Service (ICE) has created a means for employers to confirm whether a person is eligible to work in the United States, but it is little used.

Once an employee is hired, whatever his or her residency status, the majority of employers properly withhold federal, state and in some cases municipal taxes. At year's end, the employer reports total withholdings in a "W2" form to the employee, the IRS and state departments of revenue. The report lists worker name, address, earnings and Social Security number.

But what happens at the IRS (and state and municipal treasuries) to withholding taxes that cannot be matched with a valid employee account? Government entities keep the money, effectively laying claim to billions of dollars in tax revenues without having to refund overpayment or, conversely, to claim underpayment. [continue]

Interestingly, the IRS makes no distinction between legal and illegal residency and income-earning activity. Whatever the basis on which you live in the US, even if you make your living selling illegal drugs or running illicit gambling schemes, you owe taxes on income, regardless.

Al Capone and Hollywood madam Heidi Fleiss went to jail for tax evasion, not for their business activities.

Do we want illegal aliens to file? Of course, but the reality is that illegal workers do not file out of fear of discovery and deportation. Ironically, were they to do so, many would be entitled to the "Earned Income Credit," a federal program designed lend support to low-wage earners in the form of substantial tax advantages.

Thus government (and you and I by association) gains billions in unclaimed withholding payment and avoids the payment of tax subsidies when millions of illegal immigrants work and use false Social Security numbers.

As for those employed "under the table," the faceless legions doing lawn work, cleaning houses and babysitting, the obligation of employers to issue "1099 forms," a standard device for reporting contractor payments to the IRS, is stronger than ever.

Historically, employers (including private citizens who use domestic help) have been vested with responsibility for reporting, collecting and paying taxes of all kinds. More of the same is very much in order, both on the part of employers and with the cooperation of employees.

In my accounting practice I work with immigration attorneys whose clients confront a host of issues, both legal and financial, in seeking resident status or naturalization. No single source or authority is available to authenticate documents or verify information used in these initiatives and the process is exhaustive.

While Congress struggles to reconcile conflicting immigration and security agendas in the House and Senate, we as a nation need to recognize our strengths and opportunities as we weigh the contributions and costs associated with the non-citizens in our midst.

There are no easy answers to what are really a host of questions about illegal immigrants, but in observing the law we should all work to increase our knowledge about what by any measure is an endlessly complex and currently unresolved situation.

Carol Sanchez is a partner in the firm of Sanchez & Santiago, CPAs in Natick.