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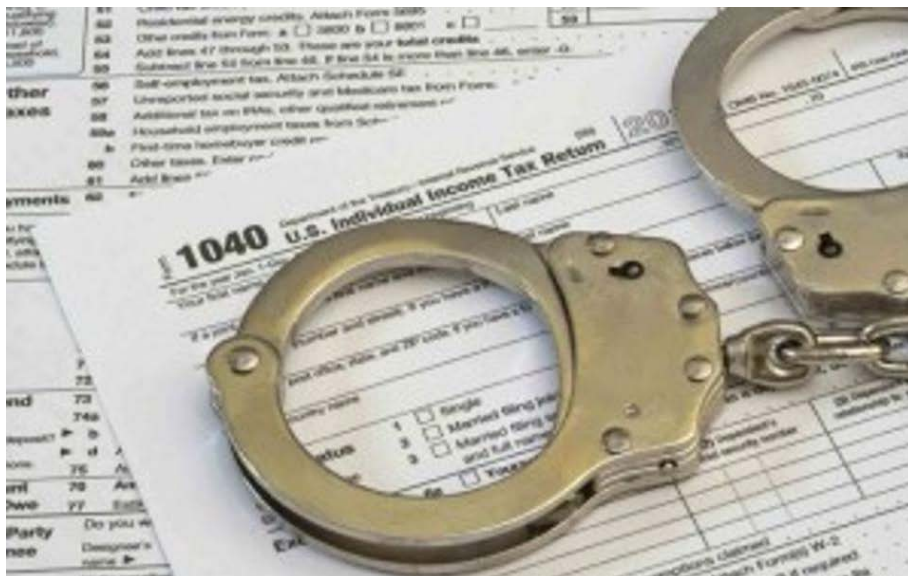
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Fudging Your Taxes? IRS Returns Carry Penalty Of Perjury

For most people these days, tax return preparation is done by someone else. The IRS statistics bear this out. According to IRS data, most U.S. taxpayers used paid preparers. Even lawmakers who pass the tax laws generally do not—or cannot—prepare their own tax returns. With over half our returns being prepared by someone else, it is no wonder that many taxpayers may feel tempted not even to *look* at their tax returns. That would be a big mistake.

Even if you do not prepare your own, you should read and understand the return to the best of your ability. After all, you must also sign it under penalties of perjury. You should review it before signing, and alert the return preparer to any mistakes you discover. It was always important to do this, but today, it is probably even more so. With electronic filing, it is easier today for taxpayers and their preparers to have almost no interaction. That can lead to mistakes.



The situation seems worse today than in the past, both because of the growing complexity of the system, and because of electronic filing. In terms of simple

mechanics, there is a marked contrast between the mechanics of paper vs. electronic. With a traditional paper filing, at least the taxpayer had to actually *sign* the return before mailing. That imported a certain amount of due diligence. Sure, you can say you just signed without reading—a robo-signer before the term was fashionable. But that doesn't get you off the hook for penalties.

It is even easier with e-filing. The client may not even *see* the return. The client *should* review the return, and the return preparer should *ask* the client to verify that all figures are correct, that the correct boxes are checked, and so on. But this may not happen. And there's no "signature" in the traditional "affix your John Hancock" sense. Neither the taxpayer nor the preparer *physically* signs the return. The taxpayer and the preparer both have numbers they enter into the record when they file.

The taxpayer has to sign a signature authorization form ([Form 8879](#)) that recites that the taxpayer has reviewed the electronic return, it is accurate, etc. This is just as important as signing. But this all happens *before* the return is submitted electronically, which makes sense. In the old days, when there was a flurry of activity in the final days before a return was completed, at least it had to be printed out, and the taxpayer had to actually sign it.

Now, there are often many last-minute changes being made. And, since the authorization form was signed days before, the final return that is submitted may be significantly different from what the client saw. The client may not be clear on exactly what is happening or what is filed. Yet the electronic filing counts as a signature for all purposes.

Since our tax law has been around since 1913, it's useful to look over the storied history of the income tax. The, "I didn't read it" defense has been used with less than successful results. Courts have consistently ruled that taxpayers have a duty to read their returns to ensure that all income items are included. Since as early as 1928, courts have held that even if all data is furnished to the return preparer, the taxpayer still has a duty to read the return and make sure all income items are included. See [Mackay v. Commissioner](#), 11 B.T.A. 569 (1928).

The Tax Court has also stated that reliance on a preparer with complete information regarding a taxpayer's business activities does not constitute a defense to return penalties if the taxpayer's cursory review of the return would have revealed errors. See [Metra Chem Corp. v. Commissioner](#), 88 T.C. 654 (1987). Even with—or in some cases, because of—electronic filing,

mistakes happen. Some taxpayers and preparers hit “send” before the return is ready.

Be careful, and review your return for accuracy. Allow time to catch mistakes. Double check to see that it is all there. Anything signed under penalties of perjury is serious.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not legal advice.