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### These Tax Mistakes Allow IRS To Audit You...Forever

When you finish the annual drudgery and file your taxes, you're done, right? Not hardly. Even if your identity hasn't been stolen and you get a refund right away, you're not really done. The IRS normally gets three years to audit. In some circumstances—for example where the issue involves offshore accounts—the IRS gets six years.

Tax lawyers and accountants are used to monitoring this exposure, and so should you. Watch the calendar until you are clear of audit. So is the rule always either three years or six years?

Surely your risk of audit *eventually* comes to an end! But in some cases, even though you filed and thought everything was in order, the statute of limitations *never* runs.

For example, if you don't sign your return, it's not considered a valid tax return. Alternatively, if you alter the penalties of perjury language, that too means the return doesn't count. Of course, those may sound like tax protester moves. However, some well-meaning taxpayers just miss a form to end up in audit purgatory.



*IRS 1040 Forms Post Office (Photo credit: stevendepolo)*

Offshore accounts held by companies, for example, can trigger extra filings. If you miss one, the IRS can audit you forever. When a U.S. shareholder owns part of a foreign corporation, it can trigger reporting, including filing an IRS Form 5471. It is an understatement to say this is important. Failing to file it means penalties, generally \$10,000 per form. A separate penalty can apply to each Form 5471 filed late, incomplete or inaccurate.

What's more, this penalty can apply even if no tax is due on the return. That is harsh, but the rule about the statute of limitations is even harsher. If you fail to file a required Form 5471, **your tax return remains open for audit indefinitely**. Normally, the statute expires after three or six years, depending on the issue and its magnitude.

This override of the normal IRS statute of limitations is sweeping. The IRS not only has an indefinite period to examine and assess taxes on items relating to the missing Form 5471. In fact,

the IRS can make any adjustments to the *entire* tax return with no expiration until the required Form 5471 is filed. Think of a Form 5471 like the signature on your return. Without it, it really isn't a return.

Note that Forms 5471 are not only required of U.S. shareholders in controlled foreign corporations. They are also required when a U.S. shareholder acquires stock resulting in 10 percent ownership in any foreign company. The harsh statute of limitation rule for Form 5471 was enacted in 2010, part of the same law that brought us FATCA, the Foreign Account Tax Compliance Act.

Bottom line: be careful. The possibility that the IRS can audit forever is chilling. The potential for large civil penalties and perhaps even criminal liability can be real.

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