

Disclose, disclose, disclose: last minute tax tips

By Robert W. Wood

Few of us look forward to completing a tax return and paying taxes, much less to the process of return preparation. You may be an inveterate do-it-yourselfer, or you may hand everything over to an accountant, enrolled agent, or other return preparer. Regardless, there are nuances this year you may not have considered. Along with a smattering of usual trips and traps, here are some tips for tax time.

You have until April 17 to file your 1040, and that goes for your California 540 as well. You can file either by paper or electronically. If you can't file on time, you can get an automatic extension until Oct. 15. However, you still must pay your taxes now or you'll face penalties when you do file in October.

Information Returns

For professionals, business people, and individuals remember those Forms 1099. The IRS is obsessive about computer matching, so is the California Franchise Tax Board. If you receive a Form 1099 reporting that you received consulting income or interest, you'd better report it. The same goes for K-1s you receive for being a shareholder of an S corporation, member of an LLC, or partner in a partnership. Report all these items carefully.

Speaking of Forms 1099, there's also a new form this year, Form 1099-K for Merchant Card and Third Party Network Payments. Taxpayers who have a credit card merchant account, PayPal account, or similar account and otherwise meet the criteria will receive Form 1099-K from their service provider.

The idea of this new form is to ensure that small businesses — say a small shop, a restaurant, or a law office — will receive a Form 1099-K from their credit card processing company showing payments the business accepted via credit card. The IRS isn't requiring the business owner to distinguish these credit card payments from cash or checks on the tax return. However, the IRS has the right to use the new reporting forms to track for unreported income, so beware. As with all income, whether reported on a Form 1099-K or not, reflect the income on your return.

Another change relates to an old form with a new twist. Brokers are now reporting your cost basis for certain stocks on Form 1099-B. This is the form you get when selling stock. The updated form has new boxes for the date you bought a stock, your cost or basis (including adjustments for commissions and splits), and whether your gain or loss was short or long term. The new reporting is only required for stock bought Jan. 1, 2011, or later. It applies to mutual funds bought Jan. 1, 2012, or later.

Like last year, you probably will be paying Alternative Minimum Tax. This year's temporary and limited relief gives a small boost in the AMT exemption. For the 2011 tax year, it is \$74,450 for taxpayers filing jointly, \$48,450 for single taxpayers and heads of households, and \$37,225 for married couples filing separately. Yet painfully it is still not adjusted for inflation.

Foreign Accounts

If you have foreign bank accounts with more than \$10,000 (in the aggregate) at any time during the year, you must disclose them. Check the foreign account box on Schedule B to your Form 1040. Since you must report worldwide income, you also must report any interest or other income from the accounts, whether or not the balance exceeds \$10,000.

In addition to your tax return, by June 30, 2012, you should file a Report of Foreign Bank and Financial Accounts (known as an FBAR). This isn't new, but the IRS and Treasury Department have cracked down hard on foreign account reporting. Huge civil penalties are possible if you misstep.

In fact, criminal penalties are not out of the question. This is no exaggeration. The new norm today is disclose, disclose, disclose. Not sure if your type of account needs to be disclosed? Disclose it.

Speaking of foreign account disclosures, you probably thought that checking the box on Schedule B, reporting all the foreign income, and filing an FBAR were enough. Not this year. Now as part of FATCA, the Foreign Account Tax Compliance Act, there's a new Form 8938. Unlike the FBAR form, this one is filed *with* your tax return.

This year for the first time there's *another* foreign account disclosure form, Form 8938. Use Form 8938 to report the ownership of specified foreign financial assets. For the filing requirement to apply, the aggregate value must exceed \$50,000 on the last day of the year, or more than \$75,000 any day during the year for unmarried U.S. taxpayers and married U.S. taxpayers filing a separate return.

For married U.S. taxpayers filing a joint return, the Form 8938 filing requirement is triggered when the aggregate value of the specified assets is \$100,000 on the last day of the year, or more than \$150,000 on any day during the year. A higher allowance is given to U.S. taxpayers living abroad. In the case of a joint return, the numbers increase to \$400,000 at the end of the year and \$600,000 during the year.

Other taxpayers living abroad may have to file Form 8938 if the aggregate value is \$200,000 on the last day of the year, or more than \$300,000 at any time throughout the year. Confused? You're not alone. There is considerable grumbling about these new forms and the duplicate reporting. Still, remember the safe thing to do is disclose, disclose, disclose.

Capital Gains

What about capital gains and losses? These rules are mostly unchanged, including the favorable 15 percent long term capital gain rate. Sadly, if you have net capital losses, you can only offset up to \$3,000 of ordinary income. And remember, for California tax purposes, you pay the ordinary income rate, but at least the federal rate is still a bargain.

However, on your federal return there's a new potentially confusing form that goes with that old stand-by the Schedule D. The new form is 8949. Investors must fill out this form with information from Forms 1099-B provided by brokers in order to complete Schedule D. The old Schedule D and the new Form 8949 work in tandem now, so be careful.

Double Check

Finally, check and double check your return. Silly but common errors that can trigger larger issues (even audits) include math errors, questions you fail to answer, boxes you fail to complete, and Social Security (or other Taxpayer Identification) Numbers you transpose. Be careful out there.

This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.



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