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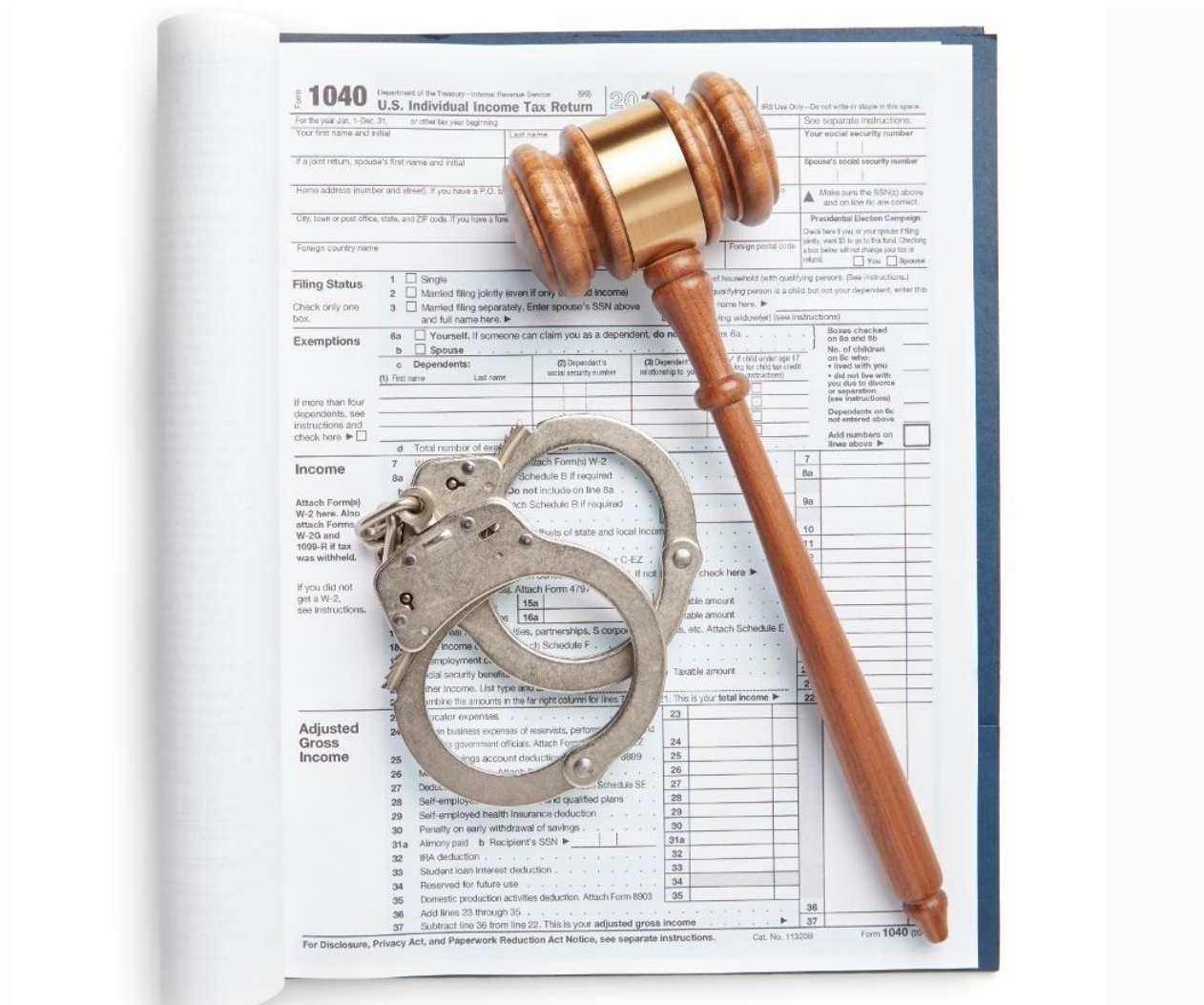
THE TAX LAWYER

TAXES 02/24/20

Sign IRS Tax Returns Under Penalty Of Perjury, Don't Take It Lightly

According to IRS data, most U.S. taxpayers used paid tax preparers. Members of Congress pass the tax laws, but even they rarely prepare their own returns. With over half of all tax returns prepared by someone else, many taxpayers may feel tempted not even to *look* at their own returns. That would be a big mistake. You can claim you signed without reading, but that won't get you off the hook for penalties. You should read and understand it to the best of your ability. After all, you must also sign it under *penalties of perjury*. That is important. Even a simple yes or no question can be a misstep. Did you buy or sell crypto in 2019? Answering yes or no matters. Besides, it can even impact how long the IRS has to audit. Tax lawyers and accountants are used to monitoring the duration of their clients' audit exposure, and so should you. Watch the calendar until you are clear of audit. In most cases, that will be either three years or six years.

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, the IRS does not consider it a valid tax return. That means the three years can never start to run. Another big no-no is if you alter the penalties of perjury language at the bottom before you sign. Don't do it. If you alter this wording, it also can mean the tax return does not count. These moves may sound like tax protester statements, but some well-meaning taxpayers forget to sign or unwittingly change the penalties of perjury wording. Some other taxpayers just miss a form to end up in audit purgatory.



An example of the latter can arise if you have an offshore account held by a company. If you miss one, the IRS can audit you forever. Always review your return before filing, and alert your return preparer of any mistakes you discover. Today, with electronic filing, it is easier for taxpayers and their preparers to have almost no interaction, and that can lead to mistakes. With paper filing, at least the taxpayer had to actually *sign* the return before mailing, which brought a certain amount of due diligence.

You *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. With e-filing, there's no signature in the traditional "affix your John Hancock" sense. The taxpayer must 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. There may be last-minute changes made to a return, and since the authorization form was signed days before, the final return that is submitted might be significantly different from what the client

saw. Yet the electronic filing counts as a signature for all purposes, so be careful.

The tax law has been around since 1913, and the "I didn't read it" defense usually doesn't work. Courts have consistently ruled that taxpayers have a duty to read their returns to ensure that all income items are included. As early as 1928, courts 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). Be careful, review your return for accuracy, and allow time to catch mistakes. Double check to see that it is all there. Anything signed under penalties of perjury is serious.

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