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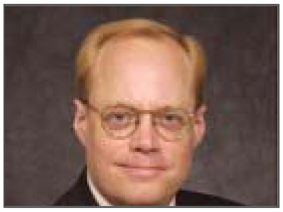

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Think IRS Can Audit Three Years? Now, You Better Worry About Six

If you are hiding income from the taxman, are you at risk three years, six, or more? Even if you did your best with your taxes, you might be worried. Taxes are horribly complex, and even innocent activities might be interpreted as suspect. It pays to know how far back you can be asked to prove your income, expenses, bank deposits and more. Start with the basic rule that the IRS *usually* has three years after you file to audit you.

But this is often extended, sometimes voluntarily. Frequently, the IRS says it needs more time to audit. The IRS asks you to sign a form extending the statute, usually for a year. Most tax advisers tell clients to agree, but get some professional advice. You may be able to limit the time or scope.

One of the biggest exceptions to the three year rule is if you omit more than 25% of your income. In that case, the IRS gets double that time, six years. And that rule was just expanded by Congress, overruling the U.S. Supreme Court. Omitting more than 25% of your income is called a 'substantial understatement' of income. For years, omitting income generally meant that—not overstating deductions or overstating your tax basis in assets.

The issue came to a head in *U.S. v. Home Concrete & Supply, LLC* in 2012. The Supreme Court held that overstating your tax basis was not the same as omitting income, so three years was plenty for the IRS! But in H.R. 3236, the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, Congress just overruled the Supreme Court. Now, the tax code says: "An understatement of gross income by reason of an overstatement of unrecovered cost or other basis is an omission from gross income." The change applies to tax returns filed after July 31, 2015. It also applies to previously filed returns that are still open.

The time periods can be downright frightening in some cases. The IRS has no time limit if you never file a return. For unfiled tax returns, criminal violations or fraud, the IRS can take its time. In most criminal or civil tax cases, though, the practical limit is six years. And in some cases, even if you file your return, if you miss some tax forms, the IRS can audit forever.

The IRS is going after offshore income and assets in a big way, and that dovetails with another IRS audit rule. The IRS also gets six years to audit if you omitted more than $5,000 of foreign income (say, interest on an overseas account). Payroll taxes can also reach back, so some say the newest tax fraud threat is your payroll tax.

H.R. 3236, the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 also changed some tax return due dates. Although the April 15 due date still holds—and a 6 month extension is still available, the due dates for partnership and corporate tax returns were changed. Check out the IRS tax return due dates that changed.

So were the due dates for FBARs, also known as FinCEN Form 114. Starting after December 31, 2015, FBARs are no longer due on June 30, but due April 15 instead. And fortunately, now you'll be able to get a six month extension, just like your tax return

The statute of limitations on taxes is a fundamental rule allowing taxpayers to cut off their exposure. You should never throw out your old tax returns–ever. But after a time–many people say seven years to be safe–you *should* be able to throw out records and receipts. Still, keep in mind that some records should be kept forever–like improvements to property that go into your basis. If you remodel your kitchen and sell your house 20 years later, the receipts for your remodeling job are still relevant.

Statutes of limitation are important. Always check them carefully, including all exceptions. If you are in a position to say it, it can be pretty satisfying to say to the IRS, "sorry, you're too late."

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