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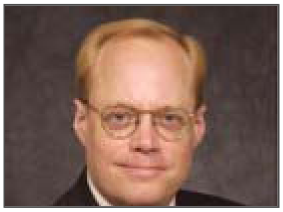

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Tricky IRS Tax Forms You Should Hope You Don't Need

Which are the worst IRS tax forms? It's hard to say, though this first Obamacare tax filing season, there's considerable worry about several of them. Form 1095-A, sent by the marketplace, shows the amount of premium tax credits paid to the insurer on your behalf. Form 1095-B, sent by health insurers, indicates the names of covered individuals in your household and the months covered.

Form 1095-C, sent by large employers, indicates whether your employer offered coverage and the employee share of the monthly premium for the employer's lowest-cost plan. There is also Form 8965 Health Coverage Exemptions, and Form 8962 Premium Tax Credit. But for most higher income and more sophisticated tax returns, if you ask what's trickiest, one common answer would be Form 6251, Alternative Minimum Tax for individuals.

The AMT is almost an entirely separate tax system growing like a weed inside the tax code. The alternative minimum tax—otherwise known as AMT—is one of many twisted features of our complex tax code. It may be the most insidious and counter-intuitive tax there is. AMT attempts to ensure that taxpayers who claim certain exclusions, deductions and credits pay a minimum amount of tax.

The AMT was enacted in 1969 to catch high income taxpayers claiming large and obscure tax deductions. It was truly an alternative and minimum tax. No matter how much you wiped out your income with exotic tax perks like intangible drilling costs and other tax-shelter sounding items, you paid a smaller alternative tax rate on virtually everything with no deductions. But as the years passed the AMT took on a life of its own.

Today, the AMT has grown to cover almost everything. And predicting how AMT works isn't easy. You can't eyeball your exposure. You compute regular tax and AMT and pay whichever is higher. And the impact of AMT is growing fast, hitting more and more taxpayers.

- 1997: 605,000 taxpayers, about 1% of all taxpayers paid AMT.
- 2009: 3.8 million taxpayers, 2.7% of taxpayers.
- 2012: Over 30 million taxpayers.
- 2020: 58 million taxpayers.

Another top contender for trickiest Form would be IRS Form 5471. When a U.S. shareholder holds more than 50 percent of the vote or value of a foreign corporation, the company is a controlled foreign corporation or CFC. A U.S. shareholder is a U.S. person who owns 10 percent or more of the foreign corporation's total voting power.

That triggers reporting, including filing an annual IRS Form 5471. It is an understatement to say this is an important form. Failing to file it means penalties, generally $10,000 per form. A separate penalty can apply to each Form 5471 filed late, and to each Form 5471 that is incomplete or inaccurate.

What's more, this penalty can apply even if no tax is due on the return. That seems harsh, but the next rule—about the statute of limitations—is even more surprising. 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 statutory override of the normal 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 theentire tax return with no expiration until the required Form 5471 is filed. You might think of a Form 5471 like the signature on your return. Without it, it really isn't a return.

Forms 5471 are not only required of U.S. shareholders in CFCs. They are also required when a U.S. shareholder acquires stock that results in 10 percent ownership in any foreign company. The harsh statute of limitation rule for Form 5471 was the result of the HIRE Act passed in 2010. Not coincidentally, this was the same law that brought us FATCA, the Foreign Account Tax Compliance Act.

Bottom line: be careful. The possibility that a statute will remain open can ruin more than your day. Every tax form deserves care.

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