

More Insider Secrets To Avoid IRS Audits

7 IRS Forms That Could Invite An IRS Audit – How Not To Not File Them!

Powerful Unknown IRS Audit-Proofing Technique Almost Guaranteed To Keep You Out of The Audit Pile

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Publisher: ISU\Information Services Unlimited

Phone: 215-688-3667

Email: **Isujanine@aol.com**

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7 IRS Forms That Could Invite An IRS Audit – Why You Should Not File Them!

As long as you aren't breaking the law by doing so, don't tell the IRS things it doesn't know about you that could get you into tax trouble. Be alert about filing these tax forms that may *seem* beneficial for you, but that aren't required. *Reason:* They may cause the IRS to audit you. *IRS forms that you should never file...*

1. IRS FORM – SCHEDULE C. This form is used for single proprietorship businesses. Schedule C (*Profit or Loss From Business*) is very commonly known and used.

Problem. The odds of being audited are based on several factors such as your income, industry, geographic area and the type of forms you file. Although income is considered to be the most dominant factor, the odds of being audited may not necessarily increase as your income does. But in some recent years, more self-employed individuals with income under \$25,000 were audited than those with income over \$100,000. “Self-Employed” often means “Schedule C”, which could be you.

IRS Trap: IRS agents love to audit Schedule C's because they are so familiar with them.

What To Do: File lesser audited forms using another entity such as a corporation or partnership. Schedule C is not the only schedule to report business income and expenses. There are other schedules. For example, if you are two or more people (or entities), you can run your business as a partnership and file a partnership return (IRS Form 1065). Form 1065 is audited much, much less than Schedule C.

If you run your business as an S-corporation, you file IRS Form 1120S. If you run your business as a C-corporation, you file IRS Form 1120. According to IRS expert's small corporate returns are not audited as much as Schedule C's. When selecting another entity for you're your business, there are other tax and legal considerations. For more info refer to the Bible audio CD series, *Powerhouse Tax Strategies For Self-Employed Entrepreneurs*, CD 7

Exception to above: If you had a small amount of entries on your Schedule C for a very small business, you do not claim home-office deductions, and your total expenses are \$2,500, then consider using Schedule C-EZ.

2.IRS FORM – SCHEDULE E. This form is used for single owned rental\commercial properties. Schedule E (*Supplemental Income and Loss*) is very commonly known and used by real estate investment owners.

IRS Trap: IRS agents also love to audit Schedule E's because they are so familiar with them.

What to Do: File lesser audited forms for your real estate holdings, preferably an LLC-Partnership (IRS Form 1065). Form 1065 is audited much, much less than Schedule C or E and corporations. If you wanted the limited liability protection of an LLC, a two or more member LLC files form 1065. For more info refer to Goldmine Chapter 5.

3. IRS Form 8082. Owners of pass-through entities should never file IRS Form 8082, *Notice of Inconsistent Treatment or Administrative Adjustment Request*, with their tax returns.

S corporations, partnerships, and trusts that distribute income to their owners report this income to the owners and to the IRS on a Schedule K-1 that categorizes the distributed income as interest, capital gain, qualified dividends, etc.

Problem: The Schedule K-1 may be mistaken, or the recipient may disagree with the entity's managers about the nature of the income (e.g., whether dividends are tax-favored "qualified" dividends or not). If you disagree with information on a K-1 that reports income to you, you can't just recategorize the income on your tax return. Instead, the IRS says that you must file Form 8082 to tell it of the discrepancy and give an explanation of why you think the reporting is wrong.

IRS Trap: Doing so tells the IRS that your pass-through entity may be misreporting income. It also notifies them of anything else you state in your explanation (e.g., “there is a dispute among the owners”). This essentially invites the IRS to audit not only you but the entity itself and everyone* else receiving income from it. *They may not appreciate that!

What to Do: When you receive a K-1, examine it right away. If you find a problem, address it with the manager of the entity and get a corrected K-1 *before* filing your return. Or file your return using the data on the K-1 you have, then after you receive a corrected K-1, file an amended tax return with the corrected numbers. That way, the IRS will never know about your entity’s mistakes, internal disputes, or other problems.

4. IRS Form 8275. People with dubious items on their tax returns should never file IRS Form 8275, *Disclosure Statement*, with their returns.

The IRS says that you should file this form to disclose questionable or gray-area deductions or positions on your return and provide your justification for taking them (such as citing court cases that you rely on).

IRS Trap: The IRS says that if you do, and then your return is audited and the disclosed item is disallowed, the IRS won't add a penalty to the taxes and interest it collects. Many taxpayers find this attractive as a way of "audit-proofing" their tax returns.

Telling the IRS that you have questionable items on your return simply asks it to audit you-and, if you are selected for audit, the IRS can examine your entire return. It isn't limited to examining the items on the Form 8275. If your return is audited a deduction is challenged by the IRS, you face the exact same task in defending it whether or not you reported it on Form 8275-only you are more likely to be audited if you have filed it.

What to Do: Don't file it. The slight potential savings of an avoided penalty isn't worth the increased risk of incurring an audit, back taxes, and interest.

5. IRS Form 872-A. Taxpayers being audited should never file IRS Form 872-A, *Special Consent to Extend the Time to Assess Tax*

IRS auditors often run up against the deadline of the three-year statute of limitations on the time in which they can assess tax. When they do, they typically ask taxpayers to file this form to extend the deadline-and may threaten to disallow every questionable item on the return if the taxpayer doesn't comply. The taxpayer could be forced to go to Tax court to defend these items.

IRS Trap: Form 872-A applies to the entire return and is open-ended—it gives the IRS forever to examine your entire return.

What to do: Tell the auditor that you will sign only a limited extension applying only to specified items on the return for a limited time. This contains the audit and forces the IRS to complete it. The form to use is IRS Form 872, *Consent to Extend the Time to Assess Tax*. You can negotiate like this because... Auditors are graded on the job by how they close cases—so the auditor *doesn't want* to disallow your deductions in a way that you can appeal to the Tax Court.

You can go to the Small Case Division of Tax Court to appeal up to \$50,000.00 of tax per tax year without using a lawyer. After filing your case, you will meet with an IRS Appeals officer and get a chance to defend your disputed deductions without going to trial at all.

6. IRS Form 5213. Owners of start-up businesses should never file IRS Form 5213, *Election to Postpone Determination as to Whether the Presumption Applies that an Activity is Engaged in for Profit*. (“Hobby Loss” Provision)

Most new businesses incur start-up losses, sometimes for years. But you can deduct these on your personal tax return against other income if your business is a proprietorship, S corporation, or partnership. This gives the business a subsidy from the government and makes the business a personal tax shelter for you.

Problem: An IRS auditor who sees the losses may conclude that you are not operating your activity with the profit motive needed to qualify it as a business. You have a “hobby”. Then your losses, and all business expense deductions, too, will be disallowed. But the IRS lets owners of start-up businesses file Form 5213 to defer any determination of their business’s “profit motive” status for five years after its start-up, with no risk of an audit in the meantime. (Note: There is a seven-year testing period for horse breeding, showing, and racing.)

IRS Trap: The owner doesn’t have to worry about an IRS audit for five years and can safely deduct all losses in the meantime. Sounds good, but the owner assumes that after five years, there will be no problem with lack of profits or showing a profit motive. Filing the form essentially asks the IRS to audit you after five years by telling it you expect to be running a business at a loss during that time. Moreover, in reality, many businesses fail in their first years without ever showing a profit. If your business is one of them, tipping off the IRS by filing this form may result in the IRS disallowing all of the business losses you deducted—going back the full five years, since Form 5213 extends the statute of limitations for auditing your business return to five years from the normal three.

What to Do: Simply don’t file the form. The IRS probably will never really notice your business—and if it does, and challenges your deductions, you can defend them as appropriate, and at worst, be at risk for only three years instead of five. For more info refer

to Goldmine Chapter 27 and to the Bible audio CD series, *Powerhouse Tax Strategies for Self-Employed Entrepreneurs*, CD 6.

7. IRS Form SS-8. Business owners should never file IRS Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding*.

One of the hottest tax disputes regarding businesses remains the categorization of workers as either employees or independent contractors. This form asks the IRS to rule on this issue for you, on the basis of answers that you provide on a questionnaire.

IRS Trap: You are sure that your workers are contractors and that the IRS will rule that they are, thus settling the issue in all future discussions with workers, state employment agencies, etc. The IRS is very highly biased toward ruling workers to be employees. It may shock you by doing so with your workers—making your firm liable for back employment taxes and penalties.

Powerful Unknown IRS Audit-Proofing Technique – Deliver Return On 10/15

Background: One strategy to reduce your chances of an audit is to file an extension for your tax return. That is, you can minimize your chances of being audited by filing as late as legally possible. A tax

return filed around April 15 generally has a greater chance of being audited than one filed on October 15 (the latest possible date). This is because the IRS schedules audits more than a year in advance. As returns are filed and scored by computer, local IRS districts submit their forecasted requirements for returns with audit potential. The fulfillment is made from returns already on hand. If your return is filed on October 15, there is a smaller chance that it will be among the returns shipped out to the District Office in the first batch. As a result of scheduling and budget problems that are likely to develop in the two years after your return has been filed, it may never find its way into the second batch slated for examination.

Even Better: Do not mail or certainly do not E-File your tax return. Instead, exactly on the day of October 15th (or Monday October 17th if 15th falls on a Saturday, or Monday October 16th if 15th falls on a Sunday), during normal business hours physically deliver your signed completed IRS copy of your individual tax return to your nearest IRS office (or whatever IRS office is convenient for you). Make sure you have a written receipt from the IRS person acknowledging receipt of your return. Do NOT lose this receipt. I recommend that *you* do this, or a trusted representative such your tax preparer or spouse. According to my advisory board of experts, doing it this way will result in your return to be in an even later batch to the district office making it more probable that the return will never find its way into that second batch slated for examination. It may just get lost. While no guarantee, it certainly is worth the effort.

ACKNOWLEDGEMENT: The above technique was shared with me by foremost tax and IRS experts - -Albert Aiello, CPA, MS Taxation

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