

How Long Are You on the Hook for a Tax Assessment?

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A frequent question from taxpayers is: how long does the IRS have to question and assess additional tax on my tax returns? For most taxpayers who reported all their income, the IRS has three years from the date of filing the returns to examine them. This period is termed the statute of limitations. But wait – as in all things taxes, it is not that clean cut. Here are some complications:

You file before the April due date – If you file before the April due date, the three-year statute of limitations still begins on the April due date. So filing early does not start an earlier running of the statute of limitations. For example, whether you filed your 2014 return on February 15, 2015 or April 15, 2015, the statute did not start running until April 15, 2015.

You file after the April due date – The assessment period for a late-filed return starts on the day after the actual filing, whether the lateness is due to a taxpayer's delinquency, or under a filing extension granted by IRS. For example, say your 2014 return is on extension until October 15, 2015, and you actually file on September 1, 2015. The statute of limitations for further assessments by the IRS will end on September 2, 2018. So the earlier you file those extension returns, the sooner you start the running of the statute of limitations.

If you want to be cautious you may wish to retain verification of when the return was filed. For electronically filed returns, you can retain the confirmation from the IRS accepting the electronically filed return. If you file a paper return, proof of mailing can be obtained from the post office at the time you mail the return.

You file an amended tax return – If after filing an original tax return you subsequently discover you made an error, an amended return is used to make the correction to the original. The filing of the amended tax return does not extend the statute of limitation unless the amended return is filed within 60 days before the limitations period expires. If that occurs, the IRS generally has 60 days from the receipt of the return to assess additional tax.

You understated your income by more than 25% – When a taxpayer underreports his or her gross income by more than 25%, the three-year statute of limitations is increased to six years.

In determining if more than 25% has been omitted, capital gains and losses aren't netted; only gains are taken into account. These "omissions" don't include amounts for which adequate information is given on the return or attached statements. For this purpose, gross income, as it relates to a trade or business, means the total of the amounts received or accrued from the sale of goods or services, without reduction for the cost of those goods or services.

You file three years late – Suppose you procrastinate and you file your return three years or more after the April due date for that return. If you owe money, you will have to pay what you owe plus interest and late filing and late payment penalties. If you have a refund due, you will forfeit that refund and perhaps get stuck with a \$135 minimum late filing penalty. No refunds are issued three years after the filing due date.

10-year collection period – Once an assessment of tax has been made within the statutory period, the IRS may collect the tax by levy or court proceeding started within 10 years after the assessment or within any period for collection agreed upon by the taxpayer and the IRS before the expiration of the 10-year period.

Remember not to discard your tax records until after the statute has run its course. When disposing of old tax records, be careful not to discard records that prove the cost of items that have not been sold. For example, you may have placed home improvement records in with your annual receipts for the year the improvement was made. You don't want to discard those records until the statute runs out for the year you sold the home. The same applies to purchase records for stocks, bonds, reinvested dividends, business assets, or anything you will sell in the future and need to prove the cost.

If you are behind on filing your returns and would like to get caught up, please give this office a call. If you discovered you omitted something from your original return and would like to file an amended return, we can help with that as well.