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How to Choose a Tax Return Preparer and Avoid Preparer Fraud

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Taxpayers who decide they need assistance when preparing a tax return should choose a tax preparer with care and caution. Even if a return was prepared by an outside individual or firm, taxpayers should remember that they are legally responsible for what they file with the Internal Revenue Service.

Most return preparers are professional, honest and provide excellent service to their clients, but some engage in fraud and other illegal activities. Return preparer fraud involves the preparation and filing of false income tax returns by preparers who claim inflated personal or business expenses, false deductions, unallowable credits or excessive exemptions on returns prepared for their clients.

Preparers may, for example, manipulate income figures to fraudulently obtain tax credits, such as the Earned Income Tax Credit. In some situations, the client, or taxpayer, may not even know of the false expenses, deductions, exemptions and/or credits shown on his or her tax return.

However, when the IRS detects a fraudulent return, the taxpayer — not the return preparer — must pay the additional taxes and interest and may be subject to penalties.

The IRS Return Preparer Program focuses on enhancing compliance in the return-preparer community by investigating and referring criminal activity by return preparers to the Department of Justice for prosecution. The IRS can also assert appropriate civil penalties against unscrupulous return preparers.

Also to combat fraud, IRS Commissioner Doug Shulman recently made a series of recommendations with the twin goals of increasing taxpayer compliance and ensuring uniform and high ethical standards of conduct for tax preparers.

While most preparers provide honest service to their clients, the IRS urges taxpayers to be careful when choosing a preparer — as careful as they would be choosing a doctor or lawyer. Even if someone else prepares a tax return, the taxpayer is ultimately responsible for all the information on the return. For that reason, taxpayers should never sign a blank tax form. And they should review the return before signing it and ask questions on entries they don't understand.

Helpful Hints When Choosing a Return Preparer

- Be cautious of tax preparers who claim they can obtain larger refunds than other preparers.
- Avoid preparers who base their fee on a percentage of the refund. Use a reputable tax professional who signs the tax return and provides a copy.
- Consider whether the individual or firm will be around to answer questions about the preparation of the tax return months, or even years, after the return has been filed.
- Check the person's credentials. Only attorneys, certified public accountants (CPAs) and enrolled agents can represent taxpayers before the IRS in all matters, including audits, collection and appeals. Other return preparers may only represent taxpayers for audits of returns they actually prepared.
- Find out if the preparer is affiliated with a professional organization that provides its members with continuing education and resources and holds them to a code of ethics.

Reputable preparers will ask to see receipts and will ask multiple questions to determine whether expenses, deductions and other items qualify. By doing so, they are trying to help their clients avoid penalties, interest or additional taxes that could result from an IRS examination.

Tax evasion is a risky crime, a felony, punishable by five years imprisonment and a \$250,000 fine.

Here are recent statistics on tax fraud from the IRS Criminal Investigation Division.

| Criminal Investigation Statistical Information on Return Preparer Fraud | | | |
|--|--------|--------|--------|
| | FY2009 | FY2008 | FY2007 |
| Investigations Initiated | 224 | 214 | 218 |
| Prosecution Recommendations | 129 | 134 | 196 |
| Indictments/Informations | 142 | 142 | 131 |
| Sentenced | 124 | 124 | 123 |
| Incarceration Rate * | 81.5% | 81.5% | 81.3% |
| Average Months to Serve | 18 | 18 | 19 |

* Incarceration may include prison time, home confinement, electronic monitoring or a combination.

Some return preparers have been convicted of or have pleaded guilty to felony charges.

Examples for Return Preparer Fraud

The following [case summaries](#) are excerpts from public record documents on file in the court records in the judicial district in which the legal actions were filed.

Former Owner of Triad Business Services Sentenced for Tax Fraud Conspiracy

On Nov. 2, 2009, in Washington, D.C., Henderson Joseph, the former owner of Triad Business Services, was sentenced to 36 months in prison, followed by three years of supervised release, and ordered to pay a \$50,000 fine. Joseph pleaded guilty in January 2009, in connection with a massive tax fraud conspiracy in which Triad Business Services sought over \$500,000 in fraudulent tax refunds for its clients. According to court documents, Joseph masterminded a scheme to file fraudulent refunds for hundreds of clients by falsifying itemized deductions and credits on the clients' individual tax returns.

Former Tax Preparer Sentenced for \$1 Million Tax Fraud

On Oct. 16, 2009, in Kansas City, Donald Bushnell, a former tax preparer, was sentenced to 36 months in prison for fraudulently preparing nearly 300 tax returns that falsely claimed more than \$1 million in business losses for his clients. Bushnell prepared 272 false and fraudulent federal tax returns from Jan. 9, 2001, to June 6, 2005, for a total tax loss of approximately \$1,088,720. Bushnell's criminal conduct caused dozens of taxpayers to incur substantial costs, ranging between \$200 and \$400 per return, for interest and penalties.

Daughters of California Return Preparer Each Sentenced to 72 Months in Federal Prison

On Oct. 5, 2009, in Riverside, Calif., Karen Denise Berry, of San Bernardino, Calif., and Carla Denine Berry, of Rialto, Calif., the daughters of a patriarch of an income tax preparation business, were each sentenced to serve 72 months in federal prison and three years of supervised release. They were also ordered to pay \$14 million in restitution to the IRS. Their father, Matthew Carl Berry, a Rialto tax return preparer, was previously sentenced to serve 108 months in federal prison, 36 months on supervised release, and ordered to pay over \$15 million in restitution to the IRS, after having been previously convicted at trial on charges that he conspired with others to defraud the Internal Revenue Service and filed false personal income tax returns for the years 2001, 2002, and 2004. Karen Denise Berry and Carla Denine Berry, along with their father, Matthew Berry, were found guilty of conspiring with Ivan Taylor Johnson, of San Bernardino, Calif., and Valerie Madel Dixon, of Rialto to impede and obstruct the lawful functions of the Internal Revenue Service. Karen Berry and Carla Berry pleaded guilty before trial to various charges including conspiracy to defraud the IRS, aiding and assisting in the preparation of false tax returns, and subscribing to a false tax return. According to court papers, the false returns Berry prepared for clients, in conjunction with the returns prepared by Karen Berry, Carla Berry, Johnson and Dixon, caused losses of more than \$45,000,000 in tax revenue to the IRS. Johnson and Dixon previously pleaded guilty to charges contained in the indictment. Johnson was sentenced to 35 months imprisonment followed by three years of supervised release and ordered to pay restitution to the IRS in the amount of \$19,034,901. Dixon was

sentenced to five years probation, including 10 months home detention, and ordered to pay restitution to the IRS of \$19,034,901.

Florida Tax Preparer Sentenced to 30 Months for Tax Fraud

On Aug. 6, 2009, in Orlando, Fla., Jean Marie Boursiquot was sentenced to 30 months in prison and ordered to pay \$149,456 in restitution. Boursiquot pleaded guilty on May 21, 2009 to his role in a conspiracy to defraud the government. According to court documents, Boursiquot ran his own tax preparation company and prepared tax returns and amended tax returns for transient Haitian immigrants in Florida. Boursiquot had the IRS mail him the refund checks directly and deposited the checks into his business account. In 2002, Boursiquot received nearly \$400,000 from the IRS and pocketed more than \$250,000 of the money that was intended for his clients. In 2003, Boursiquot received more than \$500,000 from the IRS and kept more than \$400,000 of his client's money. Boursiquot did not file a tax return for the 2002 tax year and on his 2003 tax return he only claimed \$41,341 in income.

Tax Preparers Sentenced to Prison for Filing False Returns

On June 23, 2009, in Riverside, Calif., Matthew Carl Berry, of Rialto, California, was sentenced to nine years in prison after having been previously convicted on charges that he conspired with others to defraud the government and filed false personal income tax returns for the years 2001, 2002 and 2004. In addition to prison, Berry was ordered to pay \$15,418,393 in restitution to the Internal Revenue Service and to spend three years on supervised release following his release from prison. In addition to the conspiracy charges, the jury found Berry guilty of willfully filing false income tax returns with the IRS for the 2001, 2002 and 2004 tax years.

Louisiana Tax Preparer Sentenced for Preparing False Tax Returns

Dec. 11, 2008, in Shreveport, La., Clementine Rainey, a former tax preparer for Quick Tax in Shreveport, was sentenced to 21 months in prison and ordered to pay \$111,000 in restitution for preparing false tax returns. Rainey pleaded guilty August 22, 2008, to one count of aiding the preparation of false returns. According to court documents, she admitted to preparing and filing false individual income tax returns for taxpayers for the years 2005 through 2007 by submitting fictitious W-2 employer and wage information.

Two Kenyan Women Sentenced for \$15 Million Tax Fraud Conspiracy

On Nov. 13, 2008, in Kansas City, Loretta Wavinya and her sister, Lillian Nzongi, were sentenced to prison terms of 168 months and 70 months, respectively, for their roles in a multi-million dollar conspiracy to defraud the IRS. The Kenyan nationals lived in the Kansas City area and were involved in a wire fraud scheme that involved stealing the identities of hundreds of victims, primarily nursing home residents, which were used to seek more than \$15 million in fraudulent federal tax refunds. Wavinya, a tax preparer and radiology technician who visited patients on-site at multiple nursing homes, pleaded guilty in June 2008 to using stolen identities to file more than 540 fraudulent federal tax returns using the names of more than 500 identity theft victims. The conspirators filed up to six state tax returns simultaneously with each federal return, causing a loss to at least 27 states.

Reporting Suspected Tax Fraud Activity

Tax fraud or abusive return preparers can be reported to the IRS on [Form 3949-A](#), Information Referral. This form is available as a download from the IRS Web site at IRS.gov or by calling (800) 829-3676 to order by mail. The completed form, or a letter detailing the alleged fraudulent activity, should be sent to Internal Revenue Service, Fresno, CA 93888.

The mailing should contain specific information about the individual or business, the activity, when the alleged violation took place, the amount of money involved, how the reporter became aware of it and any other information that might be helpful to an investigation. The identity of the person filing the report is not required but it could be helpful in an investigation and it can be kept confidential.

Rewards based on the amount of additional tax, penalties and interest owed can be made to individuals who report fraud. IRS [Form 211](#), Application for Award for Original Information, can be used to claim a reward.

The IRS' Whistleblower Office will make the final decision about whether an award will be paid and for how much. Award amounts are based on the value of the information you provided compared with the amount of additional tax, penalties and interest collected by the IRS.

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