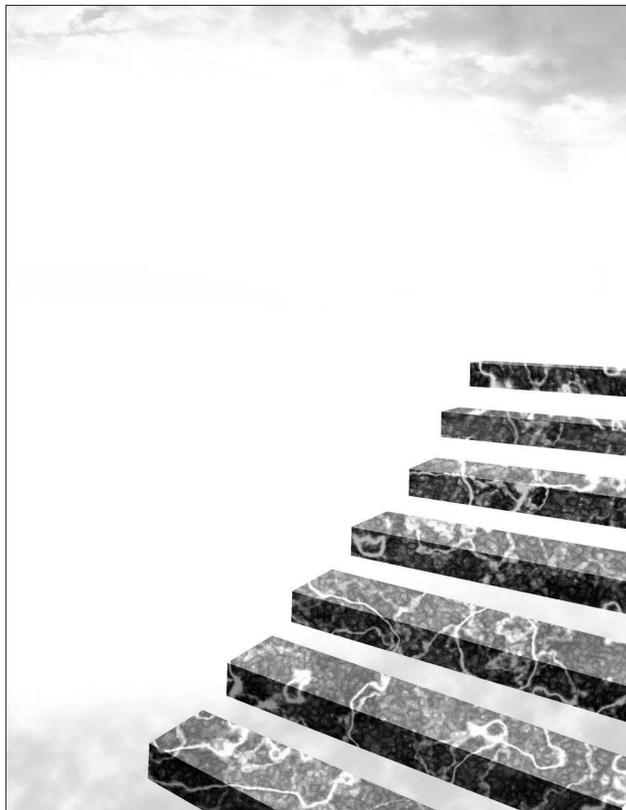


The Examination Process

(Examinations by Mail)

Stepping Through the Examination Process



The IRS Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

For general information, tax forms, and publications, visit www.irs.gov, or call 1-800-829-3676.

Your Responsibilities and Rights During the Examination Process

The information in this publication will guide you through the examination process and explain your responsibilities and rights during and after an examination.

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Why IRS Examines Returns

While most returns are accepted as filed, some are selected for examination. The IRS examines (or audits) some federal tax returns to determine if income, expenses, and credits are being reported accurately. IRS selects returns for examination using various methods. These methods include random sampling, computerized screening, and comparison of information received by the IRS such as Forms W-2 and 1099. Having your return selected for examination does not suggest that you made an error or were dishonest.



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Internal Revenue Service

www.irs.gov

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Steps in The Examination Process

STEP 1. REVIEW, GATHER, AND COMPARE INFORMATION

Review the letter and attachments for the necessary information that you need to gather. Compare the proposed changes to your tax return. If you have questions after your review, you may do the following:

- Write to the IRS at the address shown on the letter
- Call the number on your letter
- Visit your local Taxpayer Assistance Center or Low Income Tax Clinic (refer to www.irs.gov for locations or see page 6 of this publication for additional information.)
- Obtain professional assistance (Attorney, Certified Public Accountant, Enrolled Agent)

STEP 2. REPLY TO THE LETTER

You should reply by the deadline given in the letter. If you are unable to meet the deadline, please call the number on the letter to discuss your situation.

How to Submit Documentation

The letter may ask you to send in documentation to support items claimed on your tax return. Attach photocopies of your original documents to the letter and send to the address provided. **Please do not send original documents.**

If you are unable to provide verification of an amount claimed, provide an explanation of the issue and how the amount was determined.

If you are unable to provide the necessary information by fax or mail due to a substantial volume of documentation, call the number listed on the letter for assistance. You may be asked to provide an itemized list of the expenses or deductions in question.

Note: If you are faxing your documents, please include your identifying information on each page you fax. This is to ensure all pages are associated with your case.

Reminder! Be sure to respond by the deadline given in the letter.

If we accept your documentation, we will send you a letter stating we accept your return as filed. You should keep this letter with your tax records.

If we do not accept your documentation, we will send you a letter explaining any proposed changes to your tax return. If you have questions, see the contact information listed in Step 1 on this page.

Once you review the proposed changes, decide if you agree or disagree:

If You Agree with the Proposed Changes

If the letter you received shows that **you owe tax**, do the following:

1. Sign the agreement page of the letter
2. Pay any additional tax, penalties, and interest you may owe. (See the *Payment Options* section of this publication for available payment methods.)
3. Return the signed agreement, and your payment, if paying by check or money order, to the address shown on the letter.

Note: If you do not pay the additional tax and interest, you will receive a bill. For additional payment information, please refer to Publication 594, *The IRS Collection Process*.

If the letter you received shows that **you are due a refund**, do the following:

1. Sign the agreement page of the letter
2. Return the agreement page to the address on the letter
3. Expect your refund within 6 to 8 weeks provided you do not have any unpaid tax obligations or other legal debts IRS is required to collect.

If You Do Not Agree with the Proposed Changes

Do not sign the agreement page of the letter if you disagree or plan to appeal. Instead, send us documentation and an explanation to support your position.



If you do not reply, the IRS will disallow the items identified. This may delay any refund. Interest will continue to accrue on any balance due. You could miss your timeframe to resolve your dispute.

STEP 3. RESOLVE DISAGREEMENTS

If you disagree with the examiner's decision *after* you've sent in documentation to support your position, you have options to resolve your disagreements:

- Request an informal conference with an examiner's manager,
- Request an Appeals conference, or
- Petition Tax Court without having to pay the tax first.

The Appeals Process

People sometimes disagree on tax matters. The IRS has an appeals process to resolve tax issues, without going to court, and most disputes are considered and resolved informally and promptly. The Appeals Office is separate and independent from the IRS office that is examining your return. However, if you do not want to appeal, or you appealed and disagree with the Appeals determination, you may have the right to take your case to court.

HOW TO APPEAL A DECISION

You must tell IRS if you agree with the proposed changes or if you want to appeal, generally within 30 days from the date of the letter offering appeal rights. Be sure to send the request to the address on the letter within the timeframe given.

You should provide all information to support your position to the examiner during the examination. Appeals may not accept an appeal if substantial additional documentation is needed.

To appeal a decision, your reasons for disagreeing must be within the scope of the tax laws. For example, you cannot appeal your case based on moral, religious, political, constitutional, conscientious, or similar grounds.

Reminder! Call the number on the letter to address your concerns before beginning the appeals process.

TYPES OF APPEALS REQUESTS

There are two types of appeals requests: a Small Case Request and a Formal Protest.

Small Case Request (\$25,000 or less)

If the amount you want to appeal is \$25,000 or less in proposed change in tax, penalties, and interest *for each tax period*, you can:

1. Use Form 12203, *Request for Appeals Review*, available on www.irs.gov, or by calling 1-800-829-3676.
2. Send in a brief written statement requesting an Appeal. Indicate the changes you do not agree with and why you do not agree with them.

Formal Protest (More than \$25,000)

If the amount you want to appeal is more than \$25,000 in proposed change in tax, penalties, and interest for any tax period, you must file a formal protest. A formal protest must include all of the following:

- Your name, address, and a daytime telephone number.
- A statement that you want to appeal the IRS findings to the Appeals Office.
- A copy of the letter showing the proposed changes and findings you do not agree with.
- The tax periods or years involved.
- A list of the changes you do not agree with, and why you do not agree.
- The facts supporting your position on any issue that you do not agree with.
- The law or authority, if any, on which you are relying.
- Your signature on the written protest, stating that it is true under the penalties of perjury, as follows:

“Under the penalties of perjury, I declare that I examined the facts stated in this protest, including any accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.”

If your representative prepares and signs the protest for you, he or she must substitute a declaration stating:

- That he or she submitted the protest and accompanying documents, and
- Whether he or she knows personally that the facts stated in the protest and accompanying documents are true and correct.

Provide as much information as you can; this will help us to process your appeal and save you time and money.

How to Stop Interest on Your Account

To stop interest while your case is in Appeals, you may want to pay the entire amount of proposed tax, penalties, and interest. Otherwise, interest continues to accrue. If your account is adjusted, interest runs from the tax return due date until the IRS receives your payment of the entire liability, including tax, penalties, and interest. There are two types of payments that stop interest on proposed liabilities - a “deposit” and an “advance payment” of tax. You need to decide which type is right for you. Payment instructions are in the letter sent with the proposed changes report. Or, contact your examiner or Appeals Officer for information on how to make a payment to stop interest and payment types.

WHAT TO EXPECT AFTER YOU REQUEST AN APPEALS CONFERENCE

Once the IRS receives your request for an appeal conference, the examiner will forward your case to Appeals. Appeals will contact you to arrange a conference.

Appeals will usually conduct its conference with you and/or your authorized representative by telephone or correspondence, or, if you request, face-to-face. Face-to-face conferences are more appropriate for cases involving complex

issues or a substantial volume of documentation. To discuss whether a face-to-face conference might be better for you, call the number provided on the initial contact letter you receive from Appeals.

You or your qualified representative should be prepared to discuss all disputed issues at the conference. Most differences are settled at this level. Only attorneys, certified public accountants, or enrolled agents are allowed to represent a taxpayer at the Appeals conference. An unenrolled preparer may be a witness during the conference, but not a representative.

U.S. TAX COURT

The IRS or Appeals must first send you a Notice of Deficiency or other letter containing Tax Court rights. Then, you can file a petition with the U.S. Tax Court to review the determination. A case petitioned to the U.S. Tax Court will normally be considered for settlement by an Appeals Office before the Tax Court hears the case. You must file your petition within the timeframe specified in the letter, usually 90 days.

Note: The law sets the time you are allowed to file your petition; the IRS cannot change the time period. You have only the timeframe specified to petition the Court even if you continue to talk to IRS examiners or Appeals. There is a filing fee, but the fee may be waived if you qualify.

In addition to its regular procedures for filing a petition, the U.S. Tax Court has simplified procedures for small cases if your dispute is \$50,000 or less for any tax year.

Note: To use the simplified procedures, the total amount of relief sought in the petition (i.e., the amount of tax, interest, and penalties, including accrued but unassessed interest and penalties for all years) must not exceed \$50,000, calculated as of the date the petition is filed.



If you use the simplified procedure, you cannot appeal the Tax Court's decision.

You can get information about regular and simplified procedures and other matters at the Tax Court's web site or by writing to:

Clerk of the U.S. Tax Court
400 Second St. NW
Washington, DC 20217

U.S. Tax Court www.ustaxcourt.gov

District Court and the Court of Federal Claims

You may take your case to your U.S. District Court or the U.S. Court of Federal Claims, but generally, only after you have paid the tax and filed a claim for refund with the IRS. You can get information about procedures for filing suit in either court on their web sites or by contacting the clerk of the court nearest you. You can find the address and telephone number in the government section (blue pages) of your local telephone book.

U.S. District Court www.uscourts.gov

U.S. Court of Federal Claims www.cofc.uscourts.gov

Frequently Asked Questions

1. What if my spouse's actions led to the proposed changes in our taxes and I wasn't aware of his/her actions?

You could be considered what IRS refers to as an Innocent Spouse. If you filed a joint tax return, you are jointly and individually responsible for the tax and any interest and penalty due on the joint return. This is true even if a divorce decree states that a former spouse will be responsible for any amounts due on a previously filed joint return.

In some cases, a spouse may be relieved of the tax, interest, and penalties on a joint return. You can ask for relief no matter how small the liability. Three types of relief are available:

- I. Innocent spouse relief.
- II. Separation of liability.
- III. Equitable relief.

You must file Form 8857, Request for Innocent Spouse Relief, to request any of these methods of relief. Publication 971, Innocent Spouse Relief, explains each type of relief, who may qualify, and how to request relief.



You must file a claim for innocent spouse relief within two years of the first collection action regarding the deficiency.

2. Can I request a face-to-face interview?

Yes, but usually we are able to resolve most cases by telephone or correspondence. Face-to-face conferences are reserved for complex issues or substantial volumes of documentation. To discuss whether a face-to-face conference might be best for you, call the contact number provided on your most recent letter.

3. I was due a refund. When will I get it?

If we determine that you are still due a refund after the examination is complete, you can expect to receive your refund in 6 to 8 weeks.

4. Will the IRS contact anyone other than my representative or me during the examination?

Generally, the IRS will deal directly with you or your authorized representative. However, we sometimes talk with other persons if we need information that you have been unable to provide, or to verify information we have received. If we do contact other persons, such as a neighbor, bank, employer, or employees, we generally need to tell them limited information, such as your name. The law prohibits us from disclosing any more information than is necessary to obtain or verify the information we are seeking. Our need to contact other persons may continue as long as there is activity in your case. If we do contact other persons, you have a right to request a list of those contacted. Contact your examiner for more information.

5. How long after I file my return does IRS have to examine it?

We try to examine returns as soon as possible after

they are filed, but occasionally we may ask you to extend the statute of limitations of your tax return.

A return's statute of limitation generally limits the time we have to examine it and assess tax. Assessments of tax must be made within 3 years after a return is due or filed, whichever is later. We can't assess additional tax or make a refund or credit (unless you filed a timely claim) after the statute of limitations has expired.

If the statute of limitations is about to expire, we may ask you to sign an agreement, called a consent, to extend the time. This allows the Service time to complete the examination and assess additional tax. This also will allow you additional time to send more information to support your position, request an appeal if you do not agree with our findings, or to claim a tax refund or credit.

When we send you the consent, you may:

- I. Refuse to extend the statute of limitations
- II. Limit or restrict the consent to particular issues; or
- III. Limit the extension to a particular period of time.

We will send you the consent with a letter explaining this process and Publication 1035, *Extending the Tax Assessment Period*, which provides more information.

Additional Information

WHAT TO DO WHEN YOU RECEIVE A BILL

You will receive a tax bill if you have not paid your taxes in full when IRS requests payment. Pay that bill in full; by paying now, you reduce the amount of interest and penalty you owe. When you can't pay your tax bill right away, pay as much as you can and contact us immediately to explain your situation. We will help you work out a payment plan. For assistance with a payment plan, do one of the following:

- Access our webpage on the Internet: www.irs.gov.
- Call the number listed on your bill.
- Write to us at the address on your bill.
- Visit the nearest IRS Taxpayer Assistance Center listed in your phone book.

PAYMENT OPTIONS

Pay the full amount now

Make your check or money order payable to "United States Treasury" and mail to the address on your bill. Write the tax year, your Social Security Number, and your phone number on your check or money order.

Payment by Credit or Debit Card

Payment by credit or debit cards is convenient, safe, and secure. Individual taxpayers may make credit or debit card payments on tax liabilities (including installment agreement payments) by phone or Internet using major credit cards. These payments are made to the United States Treasury through authorized credit card service providers.

The service providers charge a convenience fee based on the payment amount. You will be informed of the convenience fee amount before the credit card payment is authorized. You must agree to the terms and conditions of the payment including acceptance of the convenience fee before the transaction is completed. The payment date will be the date the charge is authorized. The confirmation number provided at the end of the transaction and on your account statement will both provide proof of payment.

Visit www.irs.gov, keyword: epay, to obtain a list of authorized service providers and to obtain updated information on card payment options.

The Electronic Federal Tax Payment System (EFTPS)

The IRS and Financial Management Service provide EFTPS free. It is convenient, secure, and saves time.

Taxpayers may enroll in EFTPS at www.eftps.gov or by completing a form available from EFTPS customer service at (800) 555-4477. Once enrolled in EFTPS, you can pay all your federal taxes electronically using the Internet or phone. You can also make EFTPS payments through your local financial institution.

Installment Agreement

An installment agreement (IA) allows you to pay your debt in smaller, more manageable amounts. Installment agreements generally require equal monthly payments. We base the amount and number of your installment payments on the amount you owe and your ability to pay that amount within the time we can legally collect payments from you.

You should be aware, however, that an installment agreement is more costly than paying all the taxes you owe now. Like revolving credit arrangements, we charge interest on the unpaid

portion of the debt. Penalties also continue to accumulate on installment agreements.

Another cost associated with an installment agreement is a user fee. We charge this one-time fee to set up the agreement. If you do not meet the terms of the agreement throughout the life of the agreement, we charge an additional fee to reinstate it.

If you want to pay off your tax debt through an installment agreement, visit www.irs.gov and use the search engine with keywords "installment agreement" or call the number shown on your bill.



We want you to know that even if you set up an installment agreement, we may still file a *Notice of Federal Tax Lien* to secure the government's interest until you make your final payment.

If you arrange for an installment agreement, you may use any of the following payment methods:

- Personal or business checks, money orders, or certified funds (payable to the United States Treasury)
- Credit and debit cards
- Payroll deductions your employer takes from your salary and regularly sends to IRS
- Electronic transfers (direct debits) from your bank account or other similar means

Note: We generally cannot take any collection actions affecting your property while we consider your request for an installment agreement, while your agreement is in effect, for 30 days after we reject your request for an agreement or for any period while you appeal the rejection.

Offer in Compromise

In some cases, we may accept an Offer in Compromise (OIC), to settle an unpaid tax account, including any penalties and interest. With an OIC, we can accept less than the full amount you owe when it is doubtful we will be able to collect the entire amount due or if collection action would create an economic hardship.

In most cases, there is an application fee and a required initial payment associated with applying for an Offer in Compromise. See Form 656, *Offer in Compromise*, and Form 656-L, *Offer in Compromise (Doubt as to Liability)*, which include necessary forms and instructions.

Temporarily Delay the Collection Process

If we determine that you can't pay any of your tax debt, we may temporarily delay collection until your financial condition improves. You should know that if we delay collecting from you, your debt will continue to increase until the tax, penalties, and interest are paid in full. During a temporary delay, we will periodically review your ability to pay. We may also file a *Notice of Federal Tax Lien*, to protect the government's interest in your assets. See Publication 594, *The IRS Collection Process*.

Appeal the Collection Decision

You may also appeal the collection decision made by the IRS. For Appeal consideration of liens, levies, seizures, installment agreements, or Offers in Compromise, see Publication 1660, *Collection Appeal Rights*.

GETTING HELP

Taxpayer Advocate Service-Have a problem you cannot get resolved? We can help!

The Taxpayer Advocate Service is an independent organization within the IRS whose employees assist taxpayers who are experiencing economic harm, who are seeking help in resolving tax problems that have not been resolved through normal channels, or who believe that an IRS system or procedure is not working as it should. You may be eligible for assistance if:

- You are experiencing economic harm or significant cost (including fees for professional representation),
- You have experienced a delay of more than 30 days to resolve your tax issue, or
- You have not received a response or resolution to the problem by the date that was promised by the IRS.

The service is free, confidential, tailored to meet your needs, and available for businesses as well as individuals. There is at least one Local Taxpayer Advocate in each state, the District of Columbia, and Puerto Rico. Because advocates are part of the IRS, they know the tax system and how to navigate it. If you qualify, you will receive personalized service from a knowledgeable advocate who will:

- Listen to your problem,
- Help you understand what needs to be done to resolve it, and
- Stay with you every step of the way until your problem is resolved.

You can contact the Taxpayer Advocate Service by:

- Calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059,
- Calling or writing your local taxpayer advocate, whose address and phone number are listed in the government listings in your local telephone directory and in Publication 1546, Taxpayer Advocate Service – Your Voice at the IRS.
- Filing Form 911, *Request For Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order)*, with the Taxpayer Advocate Service, or
- Asking an IRS employee to complete Form 911 on your behalf.

To get a copy of Form 911 or learn more about the Taxpayer Advocate Service, go to www.irs.gov/advocate.

Low Income Taxpayer Clinics

Low-income taxpayer clinics are independent organizations that provide low-income taxpayers with representation in federal tax controversies with the IRS for free or for a nominal charge.

The clinics also provide tax education and outreach for taxpayers with limited English proficiency or who speak English as a second language. Publication 4134, *Low Income Taxpayer Clinic List*, provides information on clinics in your area. Publication 4134 is available at www.irs.gov or in your local IRS office.

GENERAL INFORMATION

We have provided several options for you to get general information or assistance. For information about a specific examination report, please contact the person named on the examination report or letter.

For tax information and help:

Call the number on the letter or bill you received or call us toll free at:

- 1-800-829-1040 (for 1040 filers)
- 1-800-829-4933 (for business filers)
- 1-800-829-4059 TTY/TTD

For tax forms and publications:

- 1-800-829-3676
- 1-800-829-4059 TTY/TTD
- 1-703-368-9694-Forms by Fax

Internet:

www.irs.gov

You will find answers to frequently asked tax questions; tax forms on-line, searchable publications, hot tax issues, and news.

If you prefer to write to us:

Enclose a copy of your letter or tax bill. Print your name, social security number or taxpayer identification number, and the tax form and period shown on your letter or bill. Write to us at the address shown on your letter or tax bill.

You may also visit your nearest IRS Office:

You will find the exact address in your local phone book under U.S. Government.

YOUR RIGHTS AS A TAXPAYER

Some of your most important rights as a taxpayer are listed below:

- **Protection of Your Rights**
IRS employees will explain and protect your rights as a taxpayer throughout your contact with us.
- **Privacy and Confidentiality**
The IRS will not disclose to anyone the information you give us, except as authorized by law. You have the right to know why we are asking you for information, how we will use it, and what happens if you do not provide requested information.
- **Professional and Courteous Service**
If you believe that an IRS employee has not treated you in a professional, fair, and courteous manner, you should tell that employee's supervisor. If the supervisor's response is not satisfactory, you should write to the IRS Director for your Area or the Campus where you file your return.
- **Representation**
You may either represent yourself or, with proper written authorization, have someone else represent you. Your representative must be a person allowed to practice before the IRS, such as an attorney, certified public accountant, or enrolled agent (a person enrolled to practice before the IRS). If you are in an interview and ask to consult such a person, then we must stop and reschedule the interview in most cases.
- **Payment of Only the Correct Amount of Tax**
You are responsible for paying only the correct amount of tax due under the law—no more, no less. If you cannot pay all of your tax when it is due, you may be able to make monthly payments.
- **Help with Unresolved Tax Problems and Hardships**
The Taxpayer Advocate Service can help you if you tried unsuccessfully to resolve a problem with the IRS. Your local Taxpayer Advocate can offer you special help if you have a significant hardship as a result of a tax problem. For more information, call toll-free 1-877-777-4778 (1-800-829-4059 for TTY/TDD) or write to the Taxpayer Advocate at the IRS office that last contacted you.
- **Appeals and Judicial Review**
If you disagree with us about the amount of your tax liability or certain collection actions, you have the right to ask the Appeals Office to review your case. You may also ask a court to review your case.
- **Relief from Certain Penalties and Interest**
The IRS will waive penalties when allowed by law if you can show you acted reasonably and in good faith or relied on the incorrect advice of an IRS employee. We will waive interest that is the result of certain errors or delays caused by an IRS employee. You must request a waiver of penalties in writing.

PRIVACY ACT STATEMENT

The Privacy Act of 1974 says that when we ask you for information, we must first tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if you do not provide it and whether or not you must respond under the law.

This notice applies to tax returns and any papers filed with them. It also applies to any questions we need to ask you so we can complete, correct, or process your return; figure your tax; and collect tax, interest, or penalties.

Our legal right to ask for information is found in Internal Revenue Code sections 6001, 6011, and 6012(a), and their regulations. They say that you must file a return or statement with us for any tax you are liable for. Your response is mandatory under these sections.

Code section 6109 and its regulations say that you must show your social security number or individual taxpayer identification number on what you file. You must also fill in all parts of the tax form that apply to you. This is so we know who you are, and can process your return and papers. You do not have to check the boxes for the Presidential Election Campaign Fund.

We ask for tax return information to carry out the U.S. tax laws. We need it to figure and collect the right amount of tax.

We may give the information to the Department of Justice and to other federal agencies, as provided by law. We may also give it to cities, states, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws.

We may give it to certain foreign governments under tax treaties they have with the United States. We may also disclose this information to federal, state, or local agencies that investigate or respond to acts or threats of terrorism or participate in intelligence or counterintelligence activities concerning terrorism.

If you do not file a return, do not give us the information we ask for, or provide fraudulent information, the law says that we may charge you penalties and in certain cases, subject you to criminal prosecution. We may also disallow the exemptions, exclusions, credits, deductions, or adjustments shown on your tax return. This could make your tax higher or delay any refund. Interest may also be charged.

Please keep this notice with your records. You may want to refer to it if we ask you for other information. If you have questions about the rules for filing and giving information, please call or visit any Internal Revenue Service office.