



## IRS Letters and Visits to Return Preparers - 2012 Filing Season

**NOTE: We have received numerous inquiries and feedback about the recent Letters 4809 we sent to some preparers. The intent of the letter was to notify certain preparers that some clients' returns contained entries at the extremes of what we would expect to see. These were returns that had such unusual characteristics that there would have to be very unusual circumstances for them to be accurate. If you received this letter, you should review the tax laws in those areas in preparation for next filing season, including accurately computing receipts and allowable expenses.**

In November 2011 the Internal Revenue Service sent out more than 21,000 letters to tax return preparers nationwide to remind them of their obligation to prepare accurate tax returns on behalf of their clients. The letters were sent to a pool of paid preparers who complete large volumes of tax returns with Schedules A, C or E. The selection of preparers who received the letters was based on the returns prepared for clients during the most recent filing season having a high percentage of attributes associated with returns typically containing inaccuracies and misinterpretations of tax law.

During the 2012 filing season, IRS representatives will visit approximately 2,100 tax return preparers who received these letters to further discuss their responsibilities as a return preparer and to verify their compliance with existing return preparer and e-file requirements.

This is the agency's third year of a hands-on effort to improve the accuracy and quality of filed tax returns and to heighten awareness of preparer responsibilities.

- [2012 IRS Letters and Visits to Return Preparers: Frequently Asked Questions](#)
- [2012 Return Preparer Letter](#)
- 2012 Return Preparer Enclosures
  - [Schedule A](#)
  - [Schedule C](#)
  - [Schedule E](#)

### Additional Resources

- [New PTIN Requirements for Tax Return Preparers](#)

*Page Last Reviewed or Updated: December 02, 2011*



## Return Preparer Letter - Filing Season 2012

**Note: The following is the text of a letter the IRS sent out to more than 21,000 tax return preparers nationwide to remind them of their obligation to prepare accurate tax returns on behalf of their clients.**

You are receiving this letter because the returns you prepared for clients during the most recent filing season have a high percentage of attributes associated with returns typically containing inaccuracies and misinterpretations of tax law. The enclosed document addresses some income tax issues our review suggests you may have misunderstood or misinterpreted. Please review this information carefully.

Tax return preparers are expected to be knowledgeable in tax law and prepare accurate returns while exercising due diligence. In general, preparers may rely in good faith upon client-provided information but they may not ignore the implications of information known or reasonably suspected to be untrue, incomplete, inconsistent or inaccurate.

Both you and your clients may be adversely affected by incorrect returns. These consequences may include any or all of the following:

- If your clients' returns are examined and found to be incorrect, your clients may be liable for additional tax, interest, additions to tax and penalties.
- Tax return preparers who prepare a client return for which any part of an understatement of tax liability is due to an unreasonable position can be assessed a penalty of at least \$1,000 per return (IRC section 6694(a)).
- Tax return preparers who prepare a client return for which any part of an understatement of tax liability is due to reckless or intentional disregard of rules or regulations by the tax preparer, can be assessed a penalty of at least \$5,000 per return (IRC section 6694(b)).

We will visit some tax return preparers who receive this letter beginning in November to confirm compliance with return preparer requirements. If we select you for a visit, an IRS representative will contact you to schedule an appointment and to provide you with additional information about the topics we will cover.

In addition to your responsibility to exercise due diligence in preparing accurate returns for your clients, you should be aware of the IRS's tax return preparer requirements, including proper entry of a preparer tax identification number (PTIN) on all returns you prepare for compensation and adherence to electronic filing regulations. For more information on these requirements, visit our website at [www.irs.gov/taxpros](http://www.irs.gov/taxpros).

We hope this letter has heightened your awareness of your responsibilities as a tax return preparer and provided you with information on how you can meet your obligations.

Sincerely,

David R. Williams  
Director, Return Preparer Office

Enclosures:

- [Schedule A](#)
- [Schedule C](#)
- [Schedule E](#)

[Return to 2012 Letters and Visits](#)

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## **Targeted Area of Concern Schedule A, Itemized Deductions**

As a paid tax return preparer, you must take all necessary steps to file accurate federal tax returns on behalf of your clients. These steps include reviewing the applicable tax law, and establishing the relevancy and reasonableness of income, credits, expenses, and deductions to be reported on the return. In general, a tax return preparer may rely in good faith without verification upon information furnished by the client. You may not, however, ignore the implications of information furnished to, or actually known by you, and you must make reasonable inquiries if the information as furnished appears to be incorrect, inconsistent with an important fact or another factual assumption, or incomplete. Additionally, a tax return preparer must make appropriate inquiries to determine the existence of facts and circumstances required as a condition for claiming a deduction or credit.

A review of the tax year 2010 individual income tax returns you prepared reveals that these returns contain a high percentage of attributes of returns typically found to have significant errors on Schedule A, Itemized Deductions.

To prepare accurate Schedules A, you should ask your clients sufficient questions to determine that the expenses claimed are correct. Taxpayers may not fully understand the tax laws and may incorrectly believe they are entitled to claim deductions on Schedule A for non-qualifying expenditures. The most common Schedule A issues are:

- Unreimbursed Employee Business Expenses claimed on Form 2106. Taxpayers may only claim allowable unreimbursed expenses.
- Mileage claimed on Form 2106. Taxpayers should have documentation to support business miles claimed.
- Travel, meals and entertainment expense. Taxpayers must have documentation of business purpose, as well as receipts to support expenses claimed.
- Charitable contributions. Taxpayers must have receipts for all cash contributions and adequate documentation for all non-cash contributions.

For more information on issues related to Schedule A, please visit [www.irs.gov](http://www.irs.gov) and review Tax Topics 501 through 514.

**Targeted Area of Concern**  
**Schedule C, Profit or Loss from Business (Sole Proprietorship)**

As a paid tax return preparer, you must take all necessary steps to file accurate federal individual income tax returns on behalf of your clients. These steps include reviewing the applicable tax law, and establishing the relevancy and reasonableness of income, credits, expenses, and deductions to be reported on the return. In general, the preparer may rely in good faith without verification upon information furnished by the client. You may not, however, ignore the implications of information furnished to, or actually known by you, and you must make reasonable inquiries if the information as furnished appears to be incorrect, inconsistent with an important fact or another factual assumption, or incomplete. Additionally, a tax return preparer must make appropriate inquiries to determine the existence of facts and circumstances required as a condition for claiming a deduction or credit.

A review of the tax year 2010 individual income tax returns you prepared reveals that these returns contain a high percentage of attributes of returns typically found to have significant errors on Schedule C, Profit and Loss From Business (Sole Proprietorship).

To prepare accurate Schedules C, you should ask your clients sufficient questions to determine that the expenses claimed are correct. Taxpayers may not fully understand the tax laws and may incorrectly believe they are entitled to claim deductions on Schedule C for non-qualifying expenditures. The most common Schedule C issues are:

- Gross receipts not being fully reported. Books and records should be available for review to substantiate amounts reported.
- Expenses claimed must be ordinary and necessary for the type of business reported.
- All expenses claimed are to be paid or incurred during the taxable year and the allowable amount of the expense must be correctly computed.

For more information on issues related to Schedule C, please visit [www.irs.gov](http://www.irs.gov).

## **Targeted Area of Concern Schedule E, Supplemental Income and Loss**

As a paid tax return preparer, you must take all necessary steps to file accurate federal individual income tax returns on behalf of your clients. These steps include reviewing the applicable tax law, and establishing the relevancy and reasonableness of income, credits, expenses, and deductions to be reported on the return. In general, a tax return preparer may rely in good faith without verification upon information furnished by the client. You may not, however, ignore the implications of information furnished to, or actually known by you, and you must make reasonable inquiries if the information as furnished appears to be incorrect, inconsistent with an important fact or another factual assumption, or incomplete. Additionally, a tax return preparer must make appropriate inquiries to determine the existence of facts and circumstances required as a condition for claiming a deduction or credit.

A review of the tax year 2010 individual income tax returns you prepared reveals that these returns contain a high percentage of attributes of returns typically found to have significant errors on Schedule E, Supplemental Income and Loss.

To prepare accurate Schedules E, you should ask your clients sufficient questions to determine that the expenses claimed are correct. Taxpayers may not fully understand the tax laws and may incorrectly believe they are entitled to claim deductions on Schedule E for non-qualifying expenditures. The most common Schedule E issues involve:

- Rental income and expenses not being properly reported.
- Rental depreciation not being correctly calculated.
- Limitations surrounding passive activities, basis and at-risk rules not properly considered or calculated

For more information on issues related to Schedule E, please visit [www.irs.gov](http://www.irs.gov).



## IRS Letters and Visits to Return Preparers - FAQs Filing Season 2012

### **What is the purpose of the letters and visits to selected tax return preparers? Is this related to the IRS's efforts to improve the accuracy and quality of the returns prepared by paid tax return preparers?**

Yes. This is the third year that the IRS is contacting selected tax return preparers nationally in an effort to improve the accuracy and quality of filed tax returns and to heighten awareness of preparer responsibilities. These contacts are another step in the IRS's increased efforts to ensure paid tax return preparers are assisting taxpayers appropriately.

The text of the letter sent to tax return preparers is available [online](#).

### **How many letters did the IRS send to tax return preparers?**

In preparation for the 2012 filing season, the IRS sent letters to approximately 21,000 members of the return preparer community nationwide. This is one of multiple return preparer compliance initiatives.

### **What is the focus of the letters?**

For the 2012 filing season letters, the IRS will be focusing on tax return preparers who prepared a large number of individual returns with Schedules A, C or E during the 2011 filing season. The tax return preparers receiving the letters prepared returns with a high percentage of attributes that typically indicate errors on these schedules. The letters include an enclosure that outlines common issues they should be aware of on the specific schedule. The letters also describe current responsibilities of tax return preparers, the consequences of filing incorrect returns, and new tax return preparer requirements.

The text of the letter and enclosures are available [online](#).

### **Was the professional designation of the tax return preparer (in other words, CPA, attorney, enrolled agent, or other professional designation) part of the selection process for either the letter or visit?**

No. A tax return preparer's professional designation was not a factor in determining who received the letter or who was selected for a visit. Letters were sent and visits scheduled nationwide with tax return preparers of all different professional designations. The tax return preparers who were sent letters and selected for visits come from a pool of tax return preparers who generally submit large volumes of tax returns with attributes that typically suggest errors on Schedules A, C, or E. The selection of preparers who received letters is based on filters we use to identify those preparers that may need assistance in meeting their required responsibilities.

### **How many return preparers will be visited by IRS revenue agents prior to and during the 2012 filing season? What is the purpose of the visits?**

IRS revenue agents will be conducting approximately 2,100 compliance visits with members of the return preparer community nationally.

The purpose of these visits is:

- To confirm tax return preparers are complying with current return preparer requirements, including the maintenance of records and signing and furnishing of PTINs on the tax returns that they prepare if required to do so; and
- To provide information on new return preparer requirements effective for the 2012 filing season.

### **When will the visits take place?**

Visits are expected to start in November 2011 and be completed by April 15, 2012.

### **Why is the IRS mailing these letters and conducting the visits during the busiest time of the year?**

The letters and the visits are an integral part of the ongoing effort by the IRS to enhance oversight of the tax return preparation industry and to provide educational outreach to the tax return preparer community. Many tax return preparers do not maintain regular business hours except during the filing season, making it difficult for the IRS to schedule on-site visits except during the filing season. Also, mailing the letters and conducting the visits during the filing season allows tax return preparers to use the information the IRS is sharing with them when they prepare their clients'

returns during the 2012 filing season. Using this information will help tax return preparers improve the accuracy of the returns that they prepare and avoid costly penalties for themselves and their clients.

### **What if a tax return preparer is busy and cannot meet with the revenue agent? What are the consequences?**

The IRS is providing a 5-month timeframe to conduct the visits to ensure tax return preparers are given adequate notice to schedule their visitation.

Tax return preparers who are not meeting their preparer requirements under the Internal Revenue Code may have penalties imposed against them. If tax return preparers who are not meeting their requirements also may be subject to discipline under Circular 230. Tax return preparers who were issued a provisional PTIN may have their provisional PTIN revoked. Meeting with the revenue agent provides the tax return preparer an opportunity to demonstrate that the tax return preparer is in compliance with return preparer requirements or explain why the tax return preparer has reasonable cause.

### **How will I know if I am selected for a visit?**

An IRS revenue agent will call those tax return preparers selected for a visit in advance to schedule the date and time of the visit. The revenue agent will send a letter confirming the location, date, and time of the visit.

### **If I am selected for a visit, will the visit take place in my office or at an IRS office?**

The visit will take place at your place of business.

### **If I am selected for a visit, is the IRS expecting me to do any advance preparation?**

The IRS will request that you have available tax forms that you prepared in 2011, including all relevant documents. Relevant documents include, but are not limited to, worksheets, interview notes, correspondence, and a copy of the returns you prepared for your clients. If the tax return preparer is an Electronic Return Originator, e-file transmission documents will also need to be made available.

No additional advance preparation is required, but the IRS will provide a link to [educational material](#) where you can review your obligations as a tax return preparer.

### **Will IRS revenue agents assess return preparer penalties during these visits?**

If violations are found, the revenue agent may, with managerial approval, determine it is appropriate to propose penalties. During this review, IRS revenue agents will be determining whether tax return preparers:

- Provided the client with a copy of the tax return,
- Signed the tax return as required by regulations,
- Furnished their identifying number as required by regulations,
- Retained a copy or list of returns and claims for refund as required by regulations,
- Filed correct information returns,
- Properly refused to endorse or negotiate a refund check that was issued to a taxpayer, and
- Properly safeguarded taxpayer information.

### **What due diligence requirements apply to tax return preparers?**

In general, tax return preparers should understand the underlying substantive law affecting an item of income or deduction. Tax return preparers must exercise due diligence in preparing or assisting in the preparation, approval, and filing of returns, documents, affidavits, or other papers relating to IRS matters. Tax return preparers also must exercise due diligence in determining (1) the correctness of oral and written representations made by the tax return preparer to the IRS, and (2) the correctness of representations made by the tax return preparer to the client with reference to any matter administered by the IRS. Tax return preparers who prepare returns for taxpayers who may be eligible for the earned income tax credit have additional due diligence requirements. See the [EITC Return Preparer Toolkit](#).

### **Can a tax return preparer rely upon documentation that hasn't been verified?**

Generally, yes. A tax return preparer generally may rely in good faith without verification upon information furnished by a taxpayer. A tax return preparer also may rely in good faith and without verification upon information and advice furnished by another advisor, another tax return preparer or other third party (including another advisor or tax return preparer at the tax return preparer's firm). A tax return preparer, however, may not ignore implications of information furnished to the tax return preparer or actually known by the preparer. A tax return preparer must make reasonable inquiries if the information as furnished appears to be incorrect or incomplete. Additionally, some provisions of the Internal Revenue Code or regulations require that specific facts and circumstances exist (for example, that a taxpayer maintains specific documents) before a deduction or credit may be claimed. A tax return preparer must make appropriate inquiries to determine the existence of facts and circumstances required by an Internal Revenue Code section or a regulation as a condition for claiming of a deduction or credit.

**Does a tax return preparer have to audit books and records prior to preparing a tax return?**

No. A tax return preparer is not required to audit, examine, or review books and records, business operations, documents, or other evidence to independently verify information provided by a taxpayer, advisor, other tax return preparer, or other party. However, as discussed above, a tax return preparer may not ignore implications of information furnished to the tax return preparer or actually known by the tax return preparer and must make reasonable inquiries if the information as furnished appears to be incorrect or incomplete.

**Does a tax return preparer have an obligation to make inquiries of a taxpayer?**

Yes, a tax return preparer must make inquiries of a taxpayer in order to prepare an accurate tax return. In some situations, inquiries may be general, such as asking questions about whether or not the taxpayer made charitable contributions or if they own their own home.

Similarly, the tax return preparer must make general inquiries or have existing knowledge of the taxpayer's sources of income, such as whether or not the taxpayer received alimony, a refund of state taxes in the previous year, or received interest or dividends, and for Schedule C taxpayers, a more in-depth discussion to include what accounting method the taxpayer uses.

Tax return preparers should ask for taxpayer records where appropriate, such as the previous year's tax return or copies of depreciation schedules for Schedule C or E taxpayers or stock basis for Schedule D taxpayers.

During these normal exchanges or discussions, the tax return preparer will gain a good deal of knowledge about the taxpayer. The tax return preparer must make reasonable inquiries if the information as furnished appears to be incorrect or incomplete.

Additionally, as discussed above, some provisions of the Internal Revenue Code or regulations require that specific facts and circumstances exist (for example, that the taxpayer maintains specific documents) before a deduction or credit may be claimed. These questions are necessary in order to ascertain enough information about a taxpayer to prepare the taxpayer's tax return accurately.

The following is an illustrative example. Client visits tax return preparer to have his tax return prepared and filed. Client tells tax return preparer that he is married and has three children. Client hands tax return preparer a piece of paper that lists the Social Security number and date of birth for each of his children. Client also tells tax return preparer that he has one Form W-2 for \$60,000, but that he failed to bring it with him. Client then says that his wife has her own business and that, while she did not have any gross income, she incurred \$20,000 in expenses.

Tax return preparer then prepares Client's tax return as a married filing joint return with three exemptions, EITC, and a Schedule C loss (showing \$0 gross income) without asking any questions or reviewing additional documentation. Tax return preparer has neither exercised due diligence, nor met the standards prescribed by Treasury Regulations.

**Will the IRS be contacting a tax return preparer's clients as part of this initiative, and what rights do the clients have?**

When the IRS visits preparers as part of the Fiscal Year 2012 IRS Return Preparer Initiative, the focus is on the return preparer's activity; not on the taxpayers' reporting compliance. The IRS is inspecting the taxpayers' returns to ensure the tax return preparer's compliance with the preparer requirements under the Internal Revenue Code and related regulations. Taxpayers generally will not be contacted as a result of a return preparer visit. Taxpayer contacts resulting from these visits will be to confirm potential violations by the return preparer that may result in the imposition of penalties against the tax return preparer.

[Return to 2012 Letters and Visits](#)

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