

The Newsletter



# FAUCHER LAW

TAX & BANKRUPTCY

*It's Tax Season, So It's Time to Review ...*

## The Main IRS Policies You May Not Know About

### INSIDE STORIES

- Great Result for a Wine Seller Client: Tax Bill Cut!
- My New Website!
- Fast, Healthy & Easy Baked Salmon Recipe
- Sebastian the Feline Paralegal on Filing Electronically

Tax season during Covidtime: not the most inspirational time. Still, I offer an overview of tax pointers to help you avoid trouble and stay out of my office.

#### 1. Always File Tax Return, or Request An Extension By 4/15, Even if You Owe But

**Can't Pay.** Many clients who can't pay think not filing a tax return means the IRS won't know they owe. Wrong. The IRS *always* finds out and eventually prepares a return for you. With NO deductions. So, you end up owing more than you would have if you'd filed yourself. Plus, the IRS charges 5 percent of the unpaid tax per month for failure to file – much steeper than the 0.5 percent monthly penalty for failure to pay on time. Moreover, if you fail to file, you can *never* discharge tax debt in bankruptcy. Bottom line? It always costs more to ignore the IRS than to deal with it, even if you can't pay right away.

#### 2. File Electronically Rather Than Mailing a Hard Copy - You're Much Less Likely to Be Audited.

When you file electronically, no human looks at your return - only computers do. A hard copy requires an IRS employee to type in your data, creating an occasion for input errors that a computer may later catch and then flag for audit. Second, if the IRS employee inputting the data sees something she doesn't like, she can flag your return for audit. There's almost never a reason to file a paper return anymore, *so don't do it*.

#### 3. You Are Responsible For Taxes Owed, Even If the Return Was Prepared By Someone Else.

Let's say you used a tax-preparer who claimed fictional deductions. You were busy and signed your return without looking at it. Maybe you were delighted at the unexpected refund. Maybe you were too busy running your business to delve into its accounting. Since your accountant lied, you're not responsible for

the unpaid taxes, interest, and penalties, right? Wrong. If you earned the money, then the IRS (and Congress) says you owe correct taxes on it. It's not their fault your taxes weren't calculated correctly – that's your responsibility. Implication? Thoroughly check out any accountants and managers you hire.

#### 4. The IRS NEVER Calls About An Audit – It ALWAYS Sends A Letter by US Mail.

If you receive an email or a phone call from an IRS "agent" saying you're being audited or owe money, then it's a scam. The IRS will not call or email you until well into an audit, and then only by an auditor you've already dealt with.

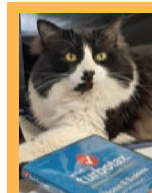
#### 5. The IRS is Mandated By Congress to Treat Taxpayers As Guilty Until They Prove Their Innocence.

The IRS begins every audit assuming you cheated – either by understating income or overstating expenses. After all, the IRS doesn't have proof of deductions and expenses – you do. Congress wants *everyone* to pay what they owe. Indeed, audits are so invasive and unpleasant precisely because taxpayers are assumed guilty until they provide documentary proof of items on their return.

#### 6. The IRS is Primarily a Law Enforcement Agency, Not a Tax Collection Agency.

The IRS's main purpose is to ensure that each taxpayer pays the correct tax and that the same processes to collect taxes are applied equally to all taxpayers. Congress wants full compliance with U.S. tax laws, so that the burden of paying for the federal government is borne by everyone. Implication? Negotiating with the IRS is nothing like haggling at a flea market. It won't "settle" for less than you owe. Congress requires it to collect every cent you legally owe – no matter how unpleasant you are, or how long it may take, or how inconvenient

it is for you if it levies your accounts and garnishes your wages. **JDF**



My star Paralegal, Sebastian, has trenchant tax and bankruptcy observations. Follow his musings on Instagram @sebastian.the.feline.paralegal

# New Year, New Website!

Check out FaucherLaw.com for great resources about my practice areas. Tax and bankruptcy issues are complicated; my team and I put together this website to provide a nuanced and exhaustive look at the policies governing bankruptcy and tax as well as my distinctive approach to them.

At FaucherLaw.com you can find:

- Well-organized tax and bankruptcy content, presented with understanding of the financial and emotional complications inherent to my practice area
- Free downloadable ebooks about the tax audit process
- Never-before-seen Sebastian the Feline Paralegal comics on most webpages, providing his classic incisive commentary
- Background information on the Faucher Law team, including Karen and Sophie
- An archive of all past newsletters

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Your Team

John D. Faucher  
Professional Overview

John practices tax and bankruptcy law because they offer an invigorating mix of client counseling, problem-solving, court appearances, and helping people get to the other side of difficult financial circumstances. His bankruptcy work focuses primarily on personal chapter 7 bankruptcy, small business chapters 7 & 11 bankruptcies, and bankruptcy litigation, both defense of creditors in bankruptcies and defense against creditors challenging a bankruptcy. John has particular expertise in how to discharge federal and California tax debts in bankruptcy. He also enjoys putting his prior employment at the Internal Revenue Service (IRS) to good use defending both individual and corporate taxpayers in IRS and CA tax agency (Franchise Tax Board, Board of Equalization, California Department of Tax & Fee Administration) audits and collection actions. John holds Certificates of Specialization in Bankruptcy Law and in Tax Law from the State Bar of California. These specializations are given only to attorneys passing an exam. Fewer than five percent of lawyers in California have this designation. John is a member of the California, Texas and Pennsylvania State Bar Associations.

Private Practice

As a former partner at Hurbett and Faucher, LLP from 2009-2012, John guided discharges, litigated cases on behalf of and against trustees, removed liens from repossessions and foreclosures, and helped debtors obtain discharges when to challenge the debtor's discharge. At the end of 2012, John started Faucher & Co. bankruptcy for large corporate clients at Eckert Seamans Cherin & Mellott in P...

Office of Chief Counsel of the IRS

Filing a Tax Court petition actually first puts the audit disagreement in front of the Office of Chief Counsel of the IRS. These IRS attorneys have even more discretion than Appeals Officers to settle cases. The attorney assigned to your case will always send it to an Appeals Officer for resolution first, before putting any real work into it. If the dispute cannot be resolved with an Appeals Officer, then the Chief Counsel attorney attempts to do so. Indeed, Tax Court rules require that the taxpayer and IRS attorney meet, confer, and prepare a lengthy stipulation outlining the facts on which they agree and disagree prior to the court's trial. The Tax Court pushes the IRS and the taxpayer together in this manner because it tends to lead to settlement. As with most types of litigation, far more tax cases enter the pipeline than are actually tried as a Chief Counsel attorney. I had primary responsibility for at least 1,500 cases but only eighteen went to trial. The rest were settled: either the taxpayer gave up, the IRS conceded or, most frequently, there both sides conceded on some issues. Most years only one percent of the tax petitions filed actually are heard in U.S. Tax Court.

Chapter 7 Personal Bankruptcy FAQs

- Will Filing Bankruptcy Run My Life? At Minimum, It Feels Humiliating
- Will My Credit Score Be Ruined if I File Bankruptcy?
- Will I Lose Everything In Bankruptcy?
- What are the Steps in This Process? What Will Going Through Bankruptcy Look Like?
- Shouldn't I Draw Down My Retirement Accounts Before Considering Bankruptcy?
- How Much Should I Pay for a Bankruptcy? I See Some Ads for \$1,000 or Less.
- Will I Lose My Credit Cards in Bankruptcy?
- Will I Lose My Car in Bankruptcy?
- What Kind of Assets Exactly Must I Declare to The Bankruptcy Trustee?

CONTINUED FROM ABOVE

IT'S BEEN AWHILE... I WORKED HERE AT CHIEF COUNSEL FOR 10 YEARS.

I BELIEVE YOU: THE DOG ATE THE RECEIPTS.

Glad you're on my side now!

BUT WE'VE NEVER ALLOWED PRIOR SUBSTITUTION BY A CAT BEFORE...

...SO A TAX JUDGE MUST MAKE THE DECISION. CLASSIC CAT PREJUDICE.

**WORTH A THOUGHT...**

*"Listening to others, especially those with whom we disagree, tests our own ideas and beliefs. It forces us to recognize, with humility, that we don't have a monopoly on the truth."*

**-Janet Yellen**

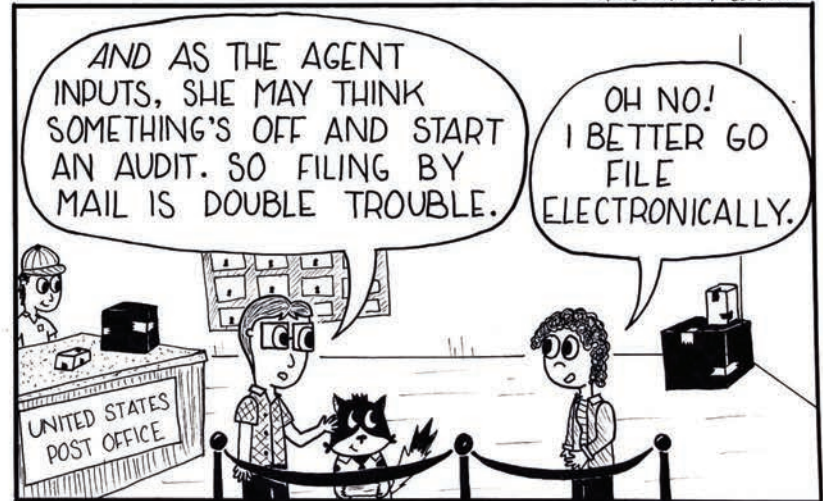
## Client Corner: Tax Bill Reduced from \$203,000 to \$1,500!

A client who buys and sells wines through an LLC that shows up as a Schedule C business on his personal tax return was recently audited. The IRS claimed he overstated expenses by almost half a million dollars, which yielded a tax and penalty adjustment of \$203,000. The

auditor was particularly concerned about my client's cost-of-goods-sold and gross receipts. His accountant had not been able to explain their computation to the auditor's satisfaction. That's when they brought me on board. I studied the 15,000-line general ledger, isolating a few dozen random but representative transactions. I walked through these transactions with the auditor until she understood both how COGs and gross receipts had been computed, and also could replicate the formula on other transactions. This gave her confidence in the validity of accounting processes and calculations. The only reason the auditor didn't allow \$5,759 in expenses – which is what created the final tax bill of \$1,500? Unfortunately, my client had zero substantiation for those expenses. Still – a result worth toasting to!







## Roast Salmon and Veggies for a Healthy, Easy Dinner

One side effect of the pandemic is that we're cooking dinner more than ever before. Sophie found this recipe and it's quick, easy, healthy and delicious.



1 ½ tsp paprika	1 medium red onion, chopped
1 tsp ground coriander	15 ½ oz canned chickpeas, rinsed
1 tsp ground cumin	4tsp extra virgin olive oil
1 tsp kosher salt	1 lb. skinless wild salmon fillet, cut 4 pieces
¾ tsp ground black pepper	4 tbsp plain Greek yogurt
2 medium zucchinis, cut into 1-in. chunks	2 tbsp fresh mint leaves (for garnish)
1 medium sweet red pepper, chopped	4 lemon wedges

### Instructions:

- Preheat oven to 450 degrees. In small bowl, combine paprika, cumin, coriander, salt, and pepper and blend well.
- On large sheet pan, toss zucchini, red pepper, onion, and chickpeas; add 1 tbsp oil and 4 tsp spice mixture. Toss again to coat and spread in a single layer; bake 20 minutes.
- Meanwhile, coat salmon with remaining oil and spice mixture.
- Remove sheet pan from oven; toss vegetables with spatula. Clear 4 spaces so salmon can sit right on the pan and nestle salmon into the spaces. Continue to bake until salmon is cooked through (about 12-15 minutes depending on thickness).
- Serve with a dollop of Greek yogurt and fresh lemon wedges; garnish with mint. **Serves 3-4**

## WELCOME TO FAUCHER LAW

**John D. Faucher** worked for 10 years as an IRS trial attorney and has been in private practice since 2008. He and his team speak the legal language. They know the **tax and bankruptcy systems** and can help you get the best result. Have other legal issues? Call us. We'll find the lawyer who's right for you, your friends, or family.

**(818) 889-8080**  
**FaucherLaw.com**

*I Pine for a Hassle-Free Tax Filing Season for Everyone...*

## Top Six IRS Policies To Keep In Mind



I'm deep in the woods of tax-filing season, meditating on how to keep my readers out of my office with future audit troubles. To that end, this issue of **The Newsletter** reviews the Top Six Things you should keep in mind about the IRS, as you prepare and file this year's tax return.

Also inside is a **story of a wine merchant client** of mine whose audit bill was reduced from six figures to \$1,500. And, right in time for tax season, there's a sneak peek of the tax section of **my new website** and advice on filing electronically from **Sebastian the Feline Paralegal**. Finally, a **salmon recipe** that's healthy, tasty and quick – a favorite in my house when time's in short supply.