

The Newsletter



FAUCHER LAW

TAX & BANKRUPTCY

Owe the IRS? Then You're on the Hook for More than Just Unpaid Tax...

The World of IRS Penalties & Interest

My tax clients often face not only unpaid taxes, but also eye-popping fines and penalties associated with those unpaid taxes. Here are the major types.

INSIDE STORIES

- Gratitude at Faucher Law
- Oak Park Fire Safe Council
- Sebastian's IRS Penalty
- Best Turkey Stuffing Recipe *Ever*

Failure-to-File Penalty. If an income tax return isn't filed by the due date (usually April 15), then the penalty is 5% of the unpaid tax per month that the return is late, up to a maximum of 25% of tax owed. If all tax owed on the late-filed return was paid, such as through withholding or estimated tax payments, then the late filing penalty is \$0. Congress assesses this fine because it needs our taxes to fund the federal government (and Congress tells the IRS how to conduct tax collection). **The annual tax filing deadline is like the due date for our tax bill: fail to tell the IRS how much your bill is for (by filling out your tax return), and you get fined if you owe.** Congress really wants taxpayers to file and pay their taxes; this penalty is an incentive to do so.

Interest. A second incentive to pay is the interest charged on unpaid tax: set quarterly, it's currently 5% annually for individuals and 7% for corporations. Congress sees unpaid taxes as a loan of its money, so it forces taxpayers who "borrow" tax revenue (by not paying their taxes on time) to pay interest. **Congress justifies interest on equity grounds: it's not fair to the taxpayers who full-pay on time if some taxpayers wait to pay what they owe.** Interest ensures late-paying taxpayers don't benefit from taking an interest-free loan from the government. In almost all circumstances, **there is no way to get out of interest charges.**

Failure-to-pay Penalty. If taxes aren't full-paid on-time (whether a return has been filed or not), then the penalty is 0.5% per month on the unpaid amount. This penalty caps at 25% of unpaid taxes if the return was filed timely.

However, if the return was late-filed, then the failure-to-pay penalty maxes at 22.5% and combines with the failure-to-file penalty, for a maximum total of 47.5% of the unpaid tax. The 5% annual interest is also charged. Congressional reasoning is the same here as above: **it's not fair to taxpayers who struggle to full-pay their taxes on time, if some taxpayers live lavishly, in part by not full-paying their taxes.**

Escaping Penalties: Reasonable Cause. If a taxpayer late-filed or didn't full-pay their taxes due to major medical or psychological trauma, then they may be able to get out of paying the penalty (but not the interest). However, the IRS rarely grants a reasonable cause exception and only with extensive documentation of the trigger such as coma, psychosis or lengthy incapacitation. **Paying taxes is a basic component of citizenship and thus Congress believes everyone must report and pay them, with only extreme exceptions permitted.** Interest isn't waived because Congress sees even the incapacitated person as having received an interest-free loan by not paying their taxes on time. It's harsh to the incapacitated person but fair to other taxpayers.

Amnesty. The IRS can administratively waive all the above penalties (not interest) with First Time Abate. If you have filed and paid your taxes for three straight years, then run into a problem either filing or paying your tax, the IRS may, in its wisdom, abate penalties. This requires a phone call to the IRS (good luck) or submission of a claim form.

Audit Negligence Penalty. If an audited tax return understated taxes owed by over \$5,000 or more than 10% of reported tax (whichever is greater), then the IRS charges 20% on the unpaid tax uncovered by the audit. IRS auditors may charge less than 20% to settle a case. **It's much easier to use "reasonable cause" to have the negligence penalty waived than the failure to file or pay penalties because the bar for reasonable cause is easier to meet.** If a taxpayer relied on incorrect advice from a professional in preparing their return, then they can often get the penalty waived.

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WORTH A THOUGHT...

“When you arise in the morning give thanks for the food and for the joy of living. If you see no reason for giving thanks, the fault lies only in yourself.”

-Shawnee Chief Tecumseh



Oak Park Fire Safe Council

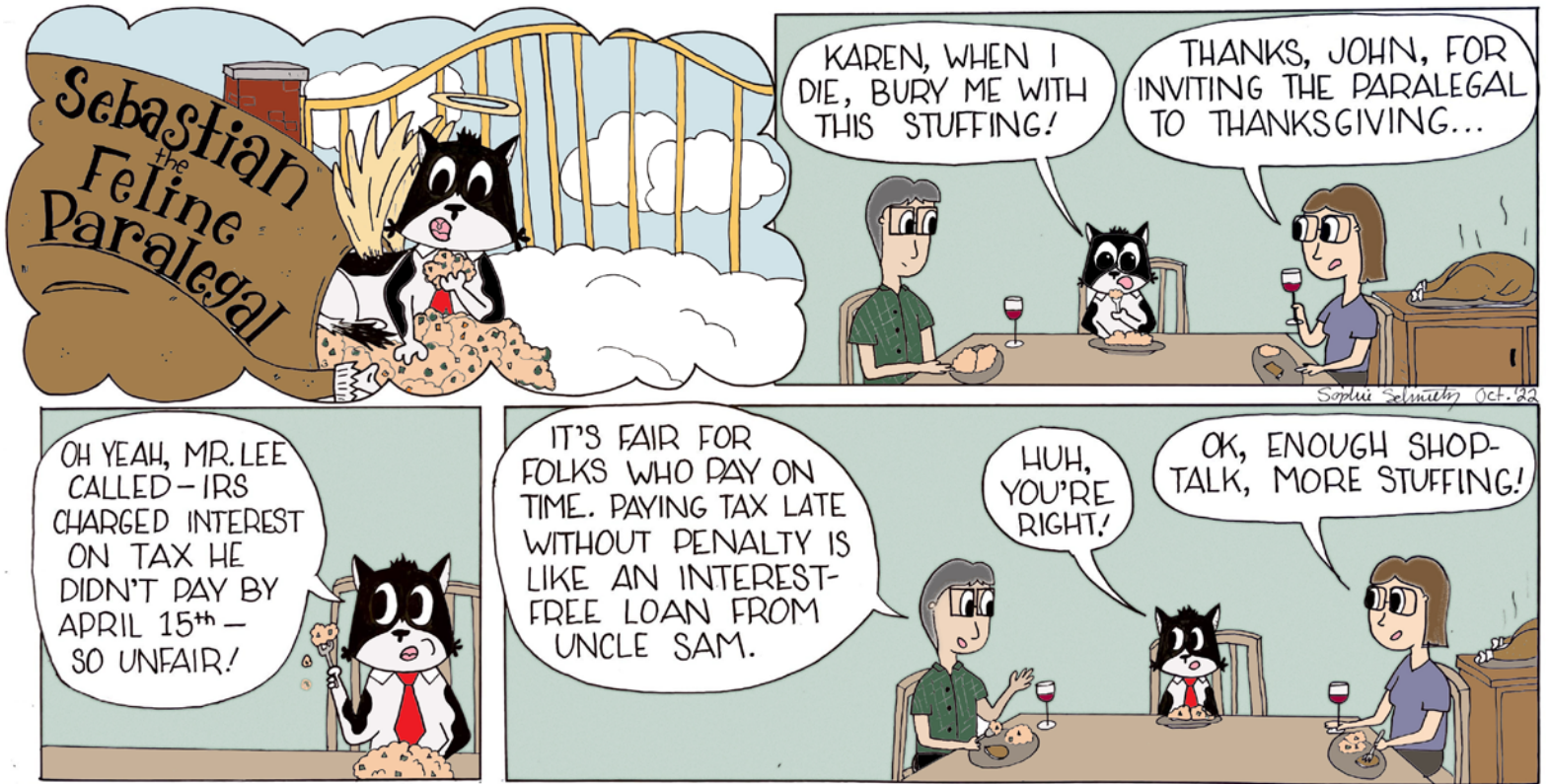
It's fire season, that increasingly treacherous time of year in southern California. The 2018 Woolsey Fire blazed through Oak Park, burning a house not even a block from mine to the ground. My next door neighbors, Lori & Sam Gunn proposed Oak Park explore ways to better prepare for fires, resulting in the formal establishment of the Oak Park Fire Safe Council. We've patterned our organization on other local councils such as in Topanga. While we're still in the early stages of holding town halls to educate folks on fire-hardening, I'm excited by our potential to reduce destruction from future wildfires. I mention this because I think community collaboration to respond to collective challenges is the essence of democracy. I like working on collective solutions to common problems. It isn't always easy but it's necessary and valuable. If you're considering a Fire Safe Council for your town, call me.



Things We're Grateful for at Faucher Law

I think a lot about my blessings at this time of year. I'm grateful for the confidence clients put in me, with emotionally and financially sensitive matters. I'm grateful to professional colleagues who trust me to help their clients. I can't do my work without terrific staff. There's Sophie's brilliant help with marketing. And Karen's indispensable gift for making this enterprise stay on track. I have the best Feline Paralegal in the world, Sebastian. And we get occasional assists from Feline Interns Tuna and Milo, but mostly we get lots of love, which helps tremendously during long workdays. Here's hoping you're celebrating similar bounty this month!





Chestnut-Apple-Cornbread Thanksgiving Stuffing

The ingredient list and time to make this are lengthy but worth it: this is *the best stuffing ever*. You can even make it gluten-free. We also love when Karen makes just stuffing - nothing else.

Instructions:

- **To make corn bread:** in medium bowl stir together flour, cornmeal, baking powder, salt, thyme. In small bowl, whisk together milk, egg, butter. Add the milk mixture to the cornmeal mixture and stir batter until just combined. Pour batter into greased 8-inch square baking pan and bake in preheated 425 oven for 20-25 minutes, until top is golden. Remove bread from pan after 5 minutes and let cool. (Corn bread can be made up to 2 days in advance).

- **To dry corn bread:** cut corn bread into bite-sized cubes, scatter on 2 large baking pans, and bake in preheated 325 oven for 30-35 minutes, stirring occasionally, until corn bread is dry and deep golden. Transfer to large bowl. (Corn bread can be dried in advance, refrigerated).

- **To make stuffing:** in large skillet cook onion & celery with salt and pepper in ½ stick butter over medium heat until vegetables are soft, then transfer into the bowl of corn bread. Add the chestnuts, parsley, sage, thyme, rosemary, 1 stick butter melted, and salt & pepper to taste. (Mixture can be made up to 1 day in advance, kept covered and chilled). Just before baking/stuffing, stir apples into the mixture.

- **Baking Stuffing:** if baking stuffing outside turkey, put stuffing into a buttered 2-quart baking dish, cover and bake at 325 for 60 - 65 minutes. Drizzle stuffing with approximately 1 cup drippings from turkey basting several times. If not enough drippings from turkey, use chicken stock. Stuffing can also be cooked in the turkey; follow your turkey roasting directions for a stuffed turkey. **Serves 6-8**

Ingredients for Corn Bread	Ingredients for Rest of Stuffing
1 cup all-purpose flour (or gluten-free flour)	2 cups diced onion
1 1/3 cups yellow cornmeal	1 ½ cup chopped celery
1 TBS baking powder	1 ½ sticks butter
1 tsp each: salt, dried thyme	¾-1 pound shelled, peeled chestnuts (Trader Joe's carries them in Nov), chopped coarse
1 cup milk	3 granny smith apples, peeled, cored, & diced 1/4"
1 large egg	½ cup chopped parsley leaves
3 TBS butter, melted and cooled	3 TBS minced fresh sage; 2 TBS each minced fresh thyme and rosemary; 1 tsp each salt & pepper

