

The Newsletter

Faucher & Associates

Should I stay or should I go ... on vacation?

Know When to Hire a Tax Lawyer

As I was saying on the previous page, you may or may not need a tax attorney to help you handle an issue with the Internal Revenue Service – sort of like you may or may not need a tour guide while on vacation.

So let's consider a few scenarios to better understand how and when a legal guide can help.

The most common need for a tax lawyer arises **when an audit goes wrong**: the IRS says you owe more tax, you don't agree, but you haven't been able to

“The IRS auditor couldn't match the Forms 1098 and disallowed all mortgage interest ...”

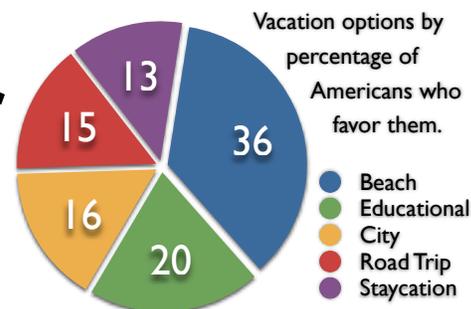
convince the IRS otherwise, as in the case of my client who had a residence and a rental house, and legally deducted the mortgage interest on both. One house also had a refinance, so the taxpayer had three Forms 1098. The IRS auditor couldn't match the Forms 1098 with the properties, and disallowed all mortgage interest. This was no holiday, but the client hired me and we set the IRS straight.

Sometimes clients hire me **as soon as their first IRS letter arrives**, before even attempting to resolve an issue themselves, as happened with a client who had lent money to strangers secured by their real estate. After 20 years, he finally put this activity on his Schedule C, meaning he stopped categorizing the lending activity as “investment,” instead claiming it as a “business,” which meant he could take significantly more deductions.

But the IRS disallowed all deductions because it maintained the activity wasn't a business after all. The client and his accountant knew that claiming Schedule C deductions was **an aggressive position** because of limited case law on this issue, and risked triggering an audit. It did, and so they called me.

Sometimes the IRS won't conduct an audit, but rather sends **the 90-day statutory notice of deficiency letter** as its first communication. Unfortunately, the only way to contest this notice is to file a lawsuit against the IRS. That typically means you need a lawyer, as an elderly client of mine did. She had received two Forms 1099 for her pension income, suggesting she received the income twice. To make matters worse, she got a notice that required her to pay additional tax based on twice the amount of her actual pension. When she wrote back that she received the income only once, the IRS sent the 90-day letter. We're currently suing the IRS in Tax Court to get a ruling that she got the income only once.

Sometimes a problem arises **after an audit: you owe tax but can't pay**. An attorney can help you work out a payment plan and avoid such IRS tactics as deducting lump sums out of your bank account without warning. And an attorney who knows the collection system can save their clients more than they'll spend on legal fees – and they might be able to take that dream vacation after all.



THE FAQ FILE:

IS IT OK TO DIY WHEN DEALING WITH THE IRS?

I've spoken with hundreds of people with IRS problems. Most don't need to hire me, but it is valuable to speak with me: I map out a solution many people can implement themselves.

Moreover, if taxpayers run into trouble in dealing with the IRS on their own, they can always hire me later. So, if you have an issue with the IRS, call me. I will honestly tell you whether it's a matter you can take care of yourself (and how), or whether you need to hire me or another attorney.

While there are many IRS issues people can handle on their own, it's a good idea to speak with a lawyer to make sure that your issue is one of them. More about this and related matters can be found at:

johndfaucher.com

To opt out of receiving our newsletter, just let us know: **818-889-8080**

WELCOME TO FAUCHER & ASSOCIATES

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

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Palm trees or Internal Revenue Service fees? Vacation Plans May Depend on IRS Plans

My caseload fluctuates, and not always according to when it's most convenient for me and my family to take a vacation.

This summer I seem to be in the office a lot, which means that many people have hired me, in some cases because the IRS is threatening to take away money that could more happily be spent on, say, a Hawaiian holiday.

But I turn down at least as many clients as I take on, and not because I don't want to represent them – or because I've got nonrefundable tickets to London and a hankering for an authentic high tea.

As I explain in this issue of The Newsletter, sometimes you really need a tax attorney, and sometimes you don't.

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