



Wood LLP

Tax Alert



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The Real 'Fifty Shades Of Grey' Is Dealing With IRS

Maybe the fact that the still not released ['Fifty Shades Of Grey' Is 'Too Hot For TV' Trailer](#) is just more marketing hype. Maybe it means there will be that much more reason to see it when it finally hits theaters on February 13, 2015—for Valentine's Day. Still, every time I hear the title, I think of the fact that there are many *more* shades of grey in the tax code and the way the IRS interprets it.

Not only that, consider the stakes. If you mess up in taxes, there are no *safe words*. The consequences can be as serious as, well, bondage. We're talking additional taxes and penalties, and in some cases even prison.

But there's another similarity. The erotic book and movie has its share of bondage. Many taxpayers feel in a state of bondage themselves, but without any pleasure. Taxes are at least as nuanced and far more puzzling. Yet it's not clear what you're supposed to do to keep your nose clean.



You can hire advice, of course, and you probably should. Yet everyone still needs some grounding in the IRS Shades of Grey just to get along in the world. You need the basics if you are a wage-earner, and it is even more important to have some tax savvy if you have a business. So think of these as, well, safe words.

Shades of Income? The IRS taxes all income from any source, whether in cash or in kind. Lottery winnings? Taxed. Gambling? Taxed. You name it, it's taxed. If you find a diamond ring, you pay tax on its fair market value even if you don't sell it. Yes there are precious few exclusions, but even offsets and deductions are rarely as inclusive as the income.

Shades of Form 1099. Those little tax forms you get in January are keyed to your Social Security number. The IRS always gets a copy. Much of what the IRS does is information [return matching](#), the endless correlation of taxpayer ID numbers and payments from [Form 1099-MISC](#), interest [Form 1099-INT](#), and many others. That makes these terribly important, so keep track of them. If you receive an incorrect Form 1099, contact the payer, explain the error, and ask if it already went to the IRS. If not, ask them to destroy it and issue a correct one. Alternatively, ask for a "corrected" 1099 since [care with Forms 1099 helps audit-proof tax returns](#).

There Are No Safe Words With the IRS. Sure, you want to be social and courteous. However, if the IRS comes to your home or business, you have the right to decline to speak with them. Ask them to talk to your representative. Take their cards and be polite but firm. Usually you can't effectively represent yourself, and it's not worth the risk that you'll say the wrong thing.

Audit Purgatory. The usual IRS statute of limitations is 3 years after you file your tax return. But there are exceptions from this basic rule. If you understate your income by 25% or more, the IRS gets 6 years. If you never file returns, the statute never starts to run. However, even then the IRS rarely goes back more than 6 years. On the other hand, the IRS statute of limitations on collections is 10 years. See [IRS Statute Of Limitations—Is Your Return Safe?](#)

Amending Your Taxes? Be careful here. Amended returns have a high audit rate especially if they request a refund. The IRS says you "should" amend your return if you discover a mistake after it's filed. However, the only time you really **must** amend is if you knew when you filed your original return that it was false. If you decide to amend, you can't cherry-pick which items to fix. The amended return must correct **everything**, not just the items in your favor.

Explaining Too Much? As in bondage, explaining too much isn't good. Keep your tax returns concise. If an explanation or disclosure is needed, keep it succinct. Attachments to tax returns should be limited to tax forms and, where needed, plain sheets of paper listing additional deductions, income, etc. Don't attach other documents. If the IRS wants documents it will ask.

Caution With Big Refunds. Getting a big refund can make your tax return stick out. Consider applying some of the refund to the current year's tax payments rather than asking for the cash. You'll have a lower profile with an initial or amended return.

Beware Foreign Accounts. An especially sensitive item these days is foreign accounts and income, especially now that FATCA is in effect. Foreign accounts may generate income but you won't receive a Form 1099. Still, U.S. taxpayers must report their worldwide income. If your foreign account balances exceed \$10,000 in the aggregate at any time during the year, you **also** must file a Treasury Form known as an [FBAR](#), now called [Form 114](#). It is separate from your tax return, and these days the scrutiny is high.

How you transition from past reporting failures is delicate, and the IRS strongly urges people to enter one of the IRS amnesty programs. If Streamlined is right for you, there's one Streamlined program for [U.S. Taxpayers Residing Outside the United States](#). There's another for [U.S. Taxpayers Residing in the United States](#). But the IRS and Justice Department have suggested that the latter is sometimes being used by people who probably should go for the more expensive but much more secure program known as the [Offshore Voluntary Disclosure Program](#) or OVDP.

Safe words? Be careful out there.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.