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THE TAX LAWYER

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Beware Amending Tax Returns

Axiomatically, you sign your federal income tax return under penalties of perjury. That means it should be accurate and complete. But in the real world, despite your best efforts and honesty, you may forget something or make an innocent—even if foolish—mistake.

In fact, it may not even be your fault. You may receive a [Form 1099](#) or Form K-1 *after* you file your return. Amended K-1s from partnerships, S corporations and LLCs have a particularly bad habit of showing up right *after* you file.

In such cases, it may surprise you to learn that you are not required by law to file an [amended return](#). Once you have filed your tax return, you cannot be prosecuted for failing to file an amended return, even if something happened after you filed that makes it clear your original return contains mistakes. When considering an amendment, first ask yourself whether the return you filed was accurate to your best knowledge when you filed it.

If it was, you are probably safe in not filing an amendment. (You still may want to amend, of course, but filing an amendment would be optional.) Conversely, if you knew the return was inaccurate when you filed it, you should amend it to make it accurate without delay. It may behoove you to get some professional advice about the nature and scope of the inaccuracy and your best plan for rectifying it.

The IRS rarely brings up an originally filed return in civil audits or in criminal prosecutions once the taxpayer has come forward and attempted

to correct it by filing an amended return. However, to take advantage of this rule, you need to make the correction **before** the IRS finds your error. Moreover, you need to be aware that even filing an amended—and fully accurate—return will not entirely immunize you if your initially filed return was fraudulent.

This is why getting some professional advice about your errors can make sense. It is rare, but the IRS can still pursue you—civilly or even criminally—if you filed a false or fraudulent return. This is so even though you may have subsequently attempted to cure the problem with an amended return. See [*Badaracco v. Commissioner*](#).

If you do file an amended return, you can't cherry-pick and make only those corrections that get you money back, but not those that increase your tax liability. You must correct everything so you can sign under penalties of perjury. Finally, know that while the vast bulk of tax returns are not audited, most advisers say that amended returns are considerably more likely to be examined than original returns.

For more, see:

[Ten Tips For Amending Your Tax Return](#)

[Do You Need To Amend Your Return?](#)

[IRS Topic 308: Amended Returns](#)

[IRS Pushes For 6 Years To Audit!](#)

[What Triggers IRS Statute Of Limitations?](#)

[Ten Things IRS Wants Workers to Consider When Contractors Become Employees](#)

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