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THE TAX LAWYER

TAXES 03/16/21

# IRS Tax Returns Are (Now) Due May 17, But Extensions May Reduce Audit Risk

UPDATE: The Treasury Department and Internal Revenue Service have announced that [Tax Day for individuals is extended to May 17, 2021](#) (see [IRS date extended](#)). The April 15 dates in this post now refer to May 17, 2021.

Remember last year? The normal April 15 deadline last year was extended to July 15. This year, there was widespread speculation that the IRS would extend it again this year, but the IRS Commissioner said no. But should you rush to file your taxes on time, or should you go on extension to October 15? Like last year, stimulus payments may be worth considering too as part of your timing decision. If you extend, it is automatic on request, and incredibly easy to do. But *should* you take advantage of the extra time? If you extend, do you *increase* your odds of audit? Conversely, maybe you actually *decrease* your audit odds, or are they the same? There's no shame in an extension. Millions of them are processed every year. Everyone can automatically get until October 15 by filing (electronically or by mail) a tiny form. It doesn't even require a signature. It couldn't be easier. Of course, the

extension is to file your tax return, it is not an extension of time to *pay*. Thus, you need to pay by April 15 what you expect to owe when you actually file your taxes later in the year, anytime up until October 15th. But are there good reasons to take the extension? You bet.

**Purpose of Form**  
Use Form 4868 to apply for 6 more months (4 if "out of the country" (defined on page 2) and a U.S. citizen or resident) to file Form 1040, 1040A, 1040EZ, 1040NR, 1040NR-EZ, 1040-PR, or 1040-SS.

**Gift and generation-skipping transfer (GST) tax return (Form 709).** An extension of time to file your 2016 calendar year income tax return also extends the time to file Form 709 for 2016. However, it doesn't extend the time to pay any gift and GST tax you may owe for 2016. To make a payment of gift and GST tax, see Form 8892. If you don't pay the amount due by the regular due date for Form 709, you'll owe interest and may also be charged penalties. If the donor died during 2016, see the instructions for Forms 709 and 8892.

**Qualifying for the Extension**  
To get the extra time you must:

available to you,  
2. Enter your total tax liability on line 4  
3. File Form 4868 by the regular due date

**CAUTION** Although you aren't required to pay taxes if you estimate as due, Form 4868 pay taxes. If you don't pay the regular due date, you'll owe interest, penalties. For more details, see Interest, on page 2. Any remittance you make with extension will be treated as a payment on your return.  
You don't have to explain why you're requesting an extension.  
We'll contact you only if your request is denied.  
Don't file Form 4868 if you want the IRS to file your return for you or if you're under a court order to file your return.

▼ DETACH HERE ▼

Form **4868**  
Department of the Treasury  
Internal Revenue Service (99)

**Application for Automatic Extension of Time To File U.S. Individual Income Tax Return**

For calendar year 2016, or other tax year beginning \_\_\_\_\_, 2016, ending \_\_\_\_\_, 20\_\_\_\_

<b>Part I Identification</b>			<b>Part II Individual Income Tax</b>	
1 Your name(s) (see instructions)			4 Estimate of total tax liability for 2016	
Address (see instructions)			5 Total 2016 payments	
City, town, or post office	State	ZIP Code	6 Balance due. Subtract line 5 from line 4 (see instructions)	
2 Your social security number	3 Spouse's social security number		7 Amount you're paying (see instructions)	
			8 Check here if you're "out of the country" citizen or resident (see instructions)	
			9 Check here if you file Form 1040NR or 1040NR-EZ and didn't receive wages as an employee with income tax withholding	

For Privacy Act and Paperwork Reduction Act Notice, see page 4. Gen. Inv. 1214702

Perhaps the best reason to extend is that going on extension encourages reflection and due care. After all, all tax returns must be signed and filed under penalties of perjury. Many returns filed right at the deadline are filed in haste, some carelessly. That will probably be true this year, perhaps even more so than usual, and that can bring on an audit. Extensions can allow time to gather records, consider reporting alternatives, and get professional advice. It is best to file accurately so you don't have to amend later. Amended returns often come about because people are in a rush. Amending isn't necessarily bad, of course. There are times you may want or need to amend your return. But try to use amended returns sparingly. For one thing, amended returns are

much more [likely to be scrutinized](#). File once correctly so you do not need to do it again.

The IRS doesn't even have to approve the extension. It is automatic, and there is no discretion involved. You automatically get the extra six months, period. Extensions used to be four months, with two additional months only if you had a good reason. But now, automatic extensions are for a full six months. You may not need all that time, and once you extend, you can file whenever you would like between April 15 and October 15. That time comes in useful in other ways too. For example, going on extension also allows for corrected Forms 1099 and K-1. You may be waiting for Forms K-1, gathering documents or seeking professional advice. Time is on your side with an extension.

If there are debatable points on your return, such as whether a [litigation](#) recovery is ordinary or capital, take the time to get some professional advice. Besides, even if you have all your forms ready, what if you receive a Form K-1 or 1099 *after* you file? It happens a lot, and the earlier you file your return, the greater the risk you will receive corrected forms that may make you need to amend. Going on extension makes it less likely that you will be surprised by a tardy corrected Form K-1 or 1099. You may as well file once and file correctly.

Of course, there are many stories about audit risk. Some people say that going on extension increases audit risk, while some people say the opposite. There appears to be no hard evidence to prove either theory. However, it is worth stressing that there is no evidence that there is an *increased* audit risk if you go on extension. In fact, on the contrary, given all the advantages of an extension, I believe that an extension can actually help *reduce* your audit risk. All taxpayers worry about [IRS audit](#) risk. Opinions vary, and there are many

old wives tales about what triggers an audit. However, it is unlikely that [going on extension increases IRS audit risk](#). The IRS releases data about audit rates based on income levels and types of tax returns.

The IRS does not release data about whether going on extension increases or decreases your chances. But I still say extensions encourage reflection and care, and that alone reduces audit risk. So, going on extension if you need the time can just make sense. To extend, you can submit a [Form 4868](#), ask your tax return preparer, use commercial software, or do it yourself electronically. For more guidance, check out [IRS tax topic 304, covering extensions of time to file your tax return](#).

*Check out my [website](#).*