



Robert W. Wood

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Like Wesley Snipes, Lawyers Failed To File Taxes, But Did Not File Falsely

Once you meet the minimum income threshold, *everybody* has to file tax returns. Yes, even lawyers and people in the tax return preparation business! A recent illustration of the rule that tax returns are virtually universal involved [two Louisiana attorneys. They pleaded guilty](#) to willfully failing to file federal tax returns. According to documents filed with the court, James Lynden Burton, 48, and his ex-wife, Lucretia Pecantte-Burton, 50, of New Iberia, Louisiana, are licensed attorneys and were partners of the law firm of Pecantte-Burton & Burton (PB&B). PB&B offered general legal services and representation and regularly received cash payments from clients for legal services rendered.

They also had a partnership interest in a tax return preparation business. For tax years 2007, 2008 and 2009, Burton and Pecantte-Burton did not file individual income tax returns, despite earning income from their law practice and the tax return preparation business. They eventually filed delinquent returns *after* they learned that they were under criminal investigation by the IRS. Such corrective action too late in the game may not alter the potential liability. Sometimes, it can even make a bad situation even worse, particularly if it looks as if you are trying to pull a fast one. It can look like a cover-up.



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A classic example of the important difference between failing to file and filing falsely involved Wesley Snipes. He may not be the one who invented this tax rule, but he is one of the best-known examples of it. *Skipping* tax filings is not to be recommended, but filing *falsely* is in a number of ways even worse. In the run-up to tax return filing time, you can expect to see frequent reminders. The IRS and Justice Department *want* you to think about tax filings. That's why there are so many criminal tax cases in the media this time of year.

Everyone with income above a certain level must file a return. And you must sign tax returns under penalties of perjury. Yet, taxes are complex, and the line between creative tax planning and tax evasion can be less clear than you might think. That's where Mr. Snipes came in. You can be prosecuted for failure to file, or for filing falsely. Mr. Snipes was [convicted of three misdemeanor counts](#) of failing to file tax returns. Filing falsely is a felony. As Snipes' misdemeanor convictions show, failing to file carries smaller penalties than filing fraudulently.

In 2008, Snipes was [convicted](#) of failing to file tax returns. He was one of the more high profile criminal tax defendants in recent memory, facing prosecution on multiple serious felony tax evasion counts. In the end, it was a partial victory for Mr. Snipes, since he defeated the more serious felony counts. But he got prison time, reporting to jail on December 9, 2010. He was

released in April 2013.

What about the, “I didn’t read it” defense? Courts have consistently ruled that taxpayers have a duty to read their returns to ensure that all income items are included. Since as early as 1928, courts have held that even if all data is furnished to the return preparer, the taxpayer still has a duty to read the return and make sure all income items are included. See [*Mackay v. Commissioner*](#), 11 B.T.A. 569 (1928).

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not legal advice.