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THE TAX LAWYER

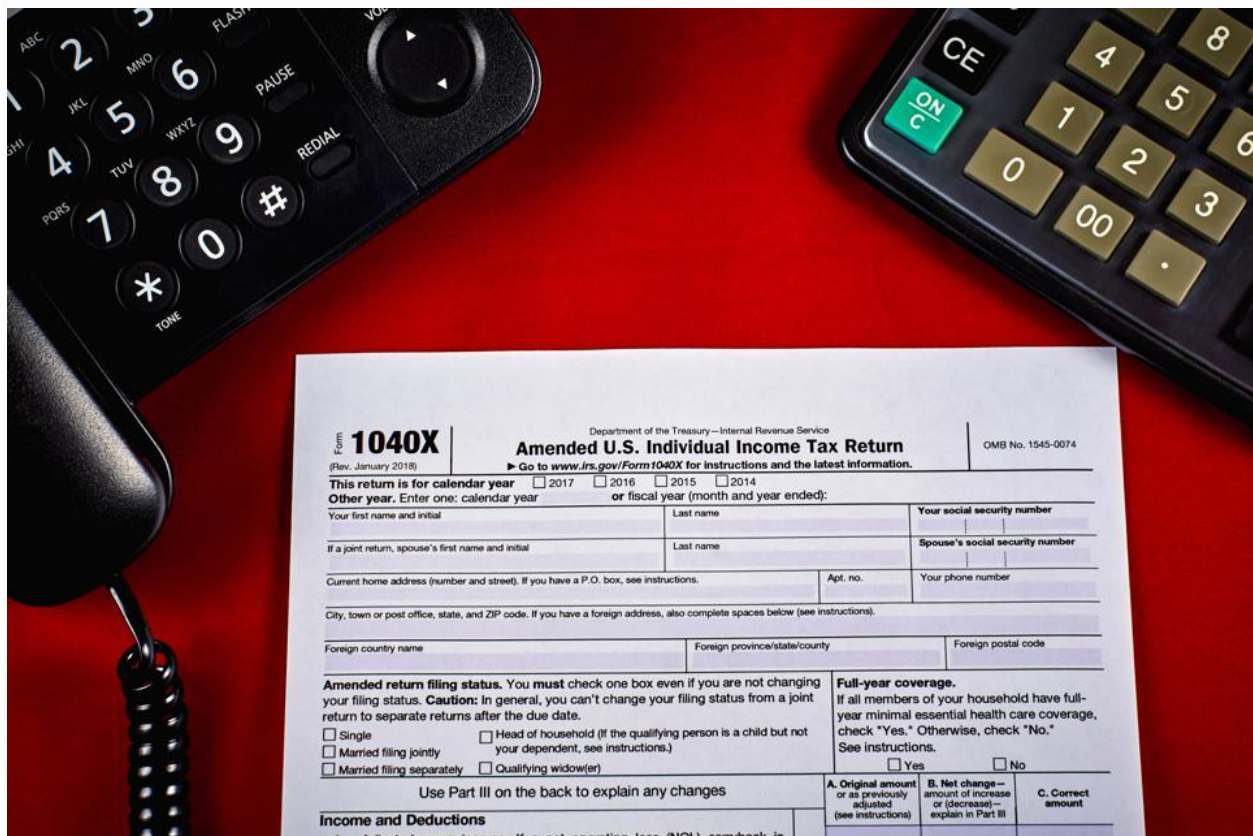
TAXES 07/20/20

Tax Return Filed With IRS, But Should You Amend It?

You filed your taxes, but what if you realized you made a mistake, forgot your W-2, or omitted income from a Form 1099? It is not too early to amend, but *should* you? Math errors are not a reason to amend, since the IRS will correct math errors on your return. You normally also do not need to amend if you discover that you omitted a Form W-2, forgot to attach schedules, or made similar mistakes. The IRS will request them if needed. So don't assume that a mistake means you *must* amend. One key factor is timing and your intent when you filed. Ask yourself whether the return you filed was accurate to your best knowledge *when you filed it*. If it was, you are probably not legally *required* to file an amendment. You might *want* to amend, but you probably do not *have* to amend.

Next, ask if you can correct it without amending. You usually can't correct a tax return without [amending it](#). But there's an exception for some mistakes up until the normal due date—or your extended due date if you went on extension. If you file a 'superseding' return before the due date of the *original* return (including extensions), it can take the place of the originally filed return. In effect, the "errors" of the first original return didn't

happen. It can be used to make an election that cannot be made on an amended return, or to make certain other changes. But be careful with this unusual procedure. You might confuse the IRS and end up having a dispute about which of the “original” returns is valid, and whether an amended return actually functions as a superseding one. Apart from this odd exception, you can generally only fix mistakes by amending your return.



If you find you made a mistake, receive revised Forms 1099 or K-1, etc., the IRS says you *should* amend. But you are not actually *required* to file an amended return. If you do, though, you can’t make only corrections that get you money back, but not those that increase your tax liability. Every tax return—including amended ones—are filed under penalties of perjury. So be accurate and complete. If you are going to amend, you do it by filing a [Form 1040X](#) within three years from the date you filed your original return, or within two years from the date you paid the tax, whichever is later.

You must use Form 1040X whether you previously filed Form 1040, 1040A or 1040EZ. Traditionally, amended returns are only filed on paper, even if you filed your original return electronically. But recently, [IRS said you can amend electronically](#). If you are amending more than one tax return, prepare a separate 1040X for each return. If you file an amended return asking for considerable money back, the IRS may review the situation even more carefully. As an alternative, you can apply all or part of your refund to your current year's tax. Normally the IRS has three years to audit a tax return. You might assume that filing an amended tax return would restart the three-year statute of limitations. Surprisingly, it doesn't.

In fact, if your amended return shows an increase in tax, and you submit the amended return within 60 days before the three-year statute runs, the IRS has only 60 days after it receives the amended return to make an assessment. This narrow window can present planning opportunities. Some people amend a return just before the statute of limitations expires. If your amended return shows you owe more tax than on your original return, you will owe additional interest and probably penalties too. Interest is charged on any tax not paid by the due date of the original return, without regard to extensions. The IRS will compute the interest and send you a bill if you don't include it. If the IRS thinks you owe penalties it will send you a notice, which you can either pay or contest.

Check out my [website](#).