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Newsletter June 2023

The IRS Issues Update to the Tax Scams to Be Aware of For 2023 and Beyond

When it comes to income taxes, two things tend to be true every year. The first is that April will always roll around yet again, whether you like it or not - which means that it's in your best interest to make sure your tax filing needs are accounted for. The second is that with this period of the year always comes scammers and other people with malicious intentions who want to do you harm.

Over the years, the IRS has issued clear guidance on how to help people avoid getting scammed in an inherently vulnerable state. Nobody from the IRS will ever contact you out of the blue by telephone or email to demand money, for example. If you legitimately owe something (or if the government thinks you do), you'll be contacted via the United States Postal Service.

But at the same time, scammers are nothing if not sophisticated. One must be proactive about staying vigilant or else you might fall directly into their trap. That's part of what the IRS wants to help people do, as they've recently issued an update to what they call the "Dirty Dozen" tax scams that people and entrepreneurs need to be aware of.

The Dirty Dozen Tax Scams: Breaking Things Down

As the name implies, the IRS' "Dirty Dozen" is an annual list of the common tax-related scams that people may encounter at some point throughout the year. They especially increase in prominence as the filing season approaches. Not only do they put people at risk of losing critical money, but they could also compromise someone's personal information, their data, and much more.

As a hard and firm rule, it is recommended that people never share sensitive personal information with someone over the phone, via email, or on social media. The lion's share of these scams depends on people not realizing this simple truth in order to be successful.

The Scams to Watch Out For

One of the scams that the IRS is warning people about for 2023 and beyond has to do with aggressive claims as they relate to the **Employee Retention Credit**. At some point, you may have heard a promotion on the radio or seen an ad online from someone claiming that they can help you save a tremendous amount of money on your taxes by way of the Employee Retention Credit.

Unfortunately, they're almost always based on inaccurate information regarding who is eligible to even take the credit in the first place, how much money you can get in the way of a credit if you are, or likely both at the same time.

Phishing and smashing are also two techniques that are on-the-rise recently. This involves a situation where fake communication has begun between a taxpayer and someone who is posing as a legitimate organization in the financial community. It could involve getting a call from someone claiming to be from the IRS, from what sounds like a legitimate tax preparation service, or a similar type of entity.

If these messages arrive in the form of a text message you didn't sign up for or weren't expecting, that's called smishing. If they come in the form of an email, that's called phishing. Regardless, they're little more than a social engineering attempt to try to get someone to provide personal and financial information that will almost always be then used to steal someone's identity.

Additional Tax Scams to Watch Out For

Another common type of tax credit scam takes the form of the "False Fuel Scam." This targets businesses that may have vehicles or other equipment that are used for official purposes. Scammers will promise taxpayers that they can get bigger refunds than they were expecting by claiming yet another credit that they probably aren't eligible for in the first place.

If you are eligible for the Credit for Federal Tax Paid on Fuels, you can claim it by filling out Form 4136. If anyone tells you differently, they're likely trying to take advantage of you.

One sad type of tax-related scam that people should be aware of has to do with fake charities. Certainly, this is nothing new - someone calls you up to try to get you to donate money to help with disaster relief or a similar cause, only to never use the money you send for those purposes.

However, recently scammers have begun trying to get both money and personal information. So not only are you out some hard-earned income from someone just trying to take advantage of you, but you could also be opening yourself up to a case of identity theft as well.

Also keep in mind that if you do donate to a charity (or to an organization that you think is a legitimate charity), you can only claim the donations if they're going to a qualified tax-exempt organization. Indeed, simply asking such a caller about their status could be a good way to weed out some of the illegitimate organizations that may be trying to contact you, to begin with.

Other examples of scams that the IRS wants to make people aware of this year include but are not limited to ones like:

- Situations where an unknown third party reaches out to try to help you with your IRS Online Account.
- Untrustworthy tax preparers who want to take advantage of you.
- Bad advice that you see on social media.
- "Offer in Compromise" mills that aren't actually acting on behalf of the IRS or associated with it in any way.

If nothing else, these and other tax scams underline the importance of making sure that your taxes are handled appropriately by someone who knows what they're doing. If you don't feel comfortable doing so yourself (and especially if you have taxes that are complicated or if you're a business owner, you shouldn't), you'll want to do your due diligence to make sure you're getting help from a professional you can trust.

Not only will they help make sure that your taxes are filed correctly, but they can also spot these scams more easily to help you avoid them - which for many people is the most important benefit of all.

Eldercare Can Be a Medical Deduction

Because people are living longer now than ever before, many individuals are receiving care when they cannot live independently. Such individuals often have questions regarding the tax ramifications associated with the cost of such care. For these individuals, the cost of such care may be deductible as a medical expense. Of course, any eligible deduction would be claimed by the person receiving the care if he or she is the one who pays the expenses. If someone else is paying the costs, that person may qualify to claim the deduction as explained below for "Medical Dependent."

Incapable of Self-Care – A person is considered incapable of self-care if, as a result of a physical or mental defect, that person is incapable of fulfilling his or her own hygiene or nutritional needs or if that person requires full-time care to ensure his or her own safety or the safety of others.

Assisted-Living Facilities – Sometimes, the entire cost of care at a nursing home, home for the aged, or assisted-living facility is deductible as a medical expense, provided that the person who lives at the facility is primarily there for medical care or is incapable of self-care. On the other hand, if the person is living at the facility primarily for personal reasons, then only the expenses that are directly related to medical care are deductible, and the cost of meals and lodging is not a deductible medical expense.

Home Care – A common alternative to nursing homes is in-home care, in which day helpers or live-in caregivers provide care within the home. The services that these caregivers provide must be allocated into (nondeductible) household chores and (deductible) nursing services. These nursing services need not actually be provided by a nurse; they simply must be the same services that a nurse would normally provide (e.g., administering medication, bathing, feeding, and dressing). If the caregivers also provide general housekeeping services, then the portion of their pay that is attributable to household chores is not deductible.
The emotional and financial aspects of caring for a loved one can be overwhelming, and as a result, caregivers often overlook their burdensome tax and labor-law obligations. Sadly, these laws provide for no special relief from these tasks.

Is the Caregiver an Employee? – Because of the way that labor laws are written, it is important to determine if an in-home caregiver is an employee. The answer to this question can be very subjective. Caregivers' services can be obtained in a number of ways:

- *Agency-provided caregivers* are employees of the agency, which handles all the responsibilities of an employer. Thus, loved ones do not have any employment-tax or payroll-reporting responsibilities; however, such caregivers generally come at a substantially higher cost than others.
- *Household workers* are typically classified as employees and are subject to Social Security and Medicare taxes. The employer is responsible for withholding the employee's share of these taxes and paying the employer's share of payroll taxes. Fortunately for these employers, the special rules for household employees greatly simplify the payroll-withholding and income-reporting requirements. Any resulting federal payroll taxes are paid in conjunction with the employer's individual 1040 tax return. Federal income-tax withholding is not required unless both the employer and the employee agree to do so. However, the employer is still required to issue a W-2 to the employee and to file that form with the federal government. The employer also must obtain federal and state employer ID numbers for reporting purposes.

    1. Some states have special provisions for the annual reporting and payment of state payroll taxes; these may be like the federal requirements. Other states have no special provisions and the household employee must be treated the same as an employee of a business.
    2. Household employers may find it easier to engage a payroll service that is knowledgeable in household employees, often referred to as Nanny Payroll Services, to handle the hassles of payroll and associated reporting paperwork.
    3. The employer's portion of all employment taxes (Social Security, Medicare, and both federal and state unemployment taxes) related to deductible medical expenses are also deductible as a medical expense.

You may be thinking, "Wait a minute – the household employers I know pay in cash and do not pay payroll taxes or issue W-2s to their household employees." This observation may be accurate, but such behavior is illegal, and it is not right to ignore the law. Think about what could happen if one of your household employees is injured on your property or if you dismiss such an employee under less-than-amicable circumstances. In such circumstances, the household employee might be eager to report you to the state labor board or to file for unemployment compensation.

Note, however, that gardeners, pool cleaners, and repair people generally work on their own schedules, invest in their own equipment, have special skills, manage their own businesses, and bear the responsibility for any profit or loss. Such workers might not be considered household employees.

Here are some additional issues to consider:

Overtime – Under the Fair Labor Standards Act, domestic employees are nonexempt workers and are entitled to overtime pay for any work beyond 40 hours in a given week. However, live-in employees are an exception to this rule in most states.

Hourly Pay or Salary – It is illegal to treat nonexempt employees as if they are salaried.

Separate Payrolls – Business owners may be tempted to include their household employees on their companies' payrolls. However, any payments to household employees are personal expenses and thus are not allowable as business deductions. Thus, business owners must maintain separate payrolls for household employees; in other words, personal funds (not business funds) must be used to pay household workers.

E*ligibility to Work in the U.S.* – It is illegal to knowingly hire or continue to employ an alien who is not legally eligible to work in the U.S. When a household employee is hired to work on a regular basis, the employer and employee each must complete Form I-9 (Employment Eligibility Verification). The employer must carefully examine the employee's documents to establish his or her identity and employment eligibility.

Employee Retirement Benefits – Although not a requirement for hiring household help, a recent tax law change permits employers of domestic employees (e.g., nannies and caregivers of adults) to provide retirement benefits for such employees under a Simplified Employee Pension plan effective in 2023 and later years.

Medical Dependent – Generally, to claim a deduction for medical expenses, the taxpayer must have incurred the expense for him- or herself, a spouse or a dependent. An individual (other than a qualifying child) will qualify as a dependent of the taxpayer if the individual is related to the taxpayer or lives with the taxpayer all year, has gross income of less than $4,700 (for 2023), doesn't file a joint return, and receives more than half their total support for the year from the taxpayer. However, there is an exception for a "medical dependent" that allows the taxpayer to include the medical expenses they paid for an individual who would have been their dependent except that the individual received gross income of $4,700 or more or the individual filed a joint return for the year.

If you have questions related to eldercare or about how your state deals with related employment issues – or if you would like assistance in setting up a household payroll system – please contact this office.

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