



Common Tax Issues

November 17, 2021

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Any oral or written opinion by Department personnel not pursuant to a Petition for Declaratory Order under 701 IAC 7.24 is not binding upon the Department.

About the Department

Mission

To serve Iowans and support State Government by collecting all taxes required by law, but no more.

Vision

Iowa will be a state where it is easy to understand and comply with tax obligations for all Iowa tax filers.

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HF 590 - Regulation of Tax Return Preparers

A Tax return preparer means any individual who:

for a fee or other consideration,

prepares ten or more tax returns or claims for refund under [Iowa Code chapter 422](#) during a calendar year,

or who assumes final responsibility for completed work on such tax returns or claims for refund under chapter 422 on which preliminary work has been done by another individual.

HF 590 - Regulation of Tax Return Preparers

The following individuals are not subject to the tax return preparer regulations:

- Certified public accountants, or licensed public accountants
- Individuals admitted to practice law in this state or another state
- Enrolled agents
- Fiduciaries of an estate, trust, or individual
- Individuals who prepare the tax returns of their employer
- Individuals employed by a local, state, or federal government agency
- Employees of a tax return preparer who don't sign returns

HF 590 - Regulation of Tax Return Preparers

This law requires tax return preparers to complete a minimum of 15 hours of continuing education courses on federal or state income tax, 2 hours of which must pertain to professional ethics.

Each course shall be taken from an Internal Revenue Service approved provider of continuing education.

www.ceprovider.us/public/default/listing

HF 590 - Regulation of Tax Return Preparers

- The Department will require documentation certifying the completion of approved CPE
[Preparer Continuing Education \(78-012\)](#)
- January 1, 2020, tax return preparers required to include “PTIN”
- Tax return preparers must begin completing their 15 hours of continuing education courses during the 2020 calendar year
- Report CPE to Department by February 15, 2021

HF 590 - Regulation of Tax Return Preparers

Tax Preparer CPE Reporting

- Common Errors
 - Miscalculated hours
 - Filled out hours incorrectly, but totaled correctly
 - Incorrect PTIN,
 - Didn't fill out course titles/hours
 - Did not sign

Individual Income Tax Errors

Most common individual income tax errors

tax.iowa.gov/individual-income-tax-returns-common-filing-issues

- [Federal income tax refund not reported](#)
- [Incorrect school district](#)
- [Incorrect Amount Withholding](#)
- [Incorrect Amount of Estimates Reported](#)
- [Health Insurance Deduction - Sch A](#)

Individual Income Tax Errors

Most common individual income tax errors

tax.iowa.gov/individual-income-tax-returns-common-filing-issues

- Name and Address
- [Low Income Exemption - NR \\$1,000](#)
- [IA 126](#) (K-1, Gambling, Unemployment)
- [IA130](#)
- [Signatures and Attachments](#)

Individual Income Tax Errors

Other issues

- Bank Account Information
- CP2000
- Federal Audit Adjustment
- Unemployment Compensation
 - Federal and IA w/h, exclusion

Individual Income Tax Errors

Other issues

- [Capital Gain Deductions](#) (Forms)

Iowa Capital Gains Deduction

For tax years beginning on or after January 1, 1998, net capital gains from the sale of the assets of a business described in subrules 40.38(2) to 40.38(8) are excluded in the computation of net income for qualified individual taxpayers.

Iowa Capital Gains Deduction

This includes net capital gains from the sales of:

- real property,
- assets of a business entity,
- certain livestock of a business,
- timber,
- liquidation of assets of certain corporations,
- and certain stock sales which are treated as acquisition of assets of a corporation.

Iowa Capital Gains Deduction

Subrule 40.38(1) describes the criteria for **material participation** which are required for the exclusion of certain capital gains related to the **sale of real property** and the **sale of assets of business entities**.

Iowa Capital Gains Deduction

40.38(1) **Material participation** in a business if the taxpayer has

- been involved in the operation of the business on a **regular, continuous, and substantial basis** for **ten or more years** at the time assets of the business are sold or exchanged.

Iowa Capital Gains Deduction

Material participation

- The activities of other family members, employees, or consultants are **not attributed to the taxpayer** to determine material participation.

Iowa Capital Gains Deduction

Material participation 40.38(1)(e)

- **Generally**, an individual will be considered as materially participating in a tax year if the taxpayer satisfies or meets any of the following tests:

Iowa Capital Gains Deduction

Material participation test - 40.38(1)(e)

- (1) The individual participates in the business for more than **500 hours** in the taxable year
- (2) The individual's participation in the business constitutes **substantially all of the participation** of all individuals in the business for the tax year
- (3) The individual participates in the business for more than **100 hours in the tax year**, and **no other individual spends more time** in the business activity than the taxpayer

Iowa Capital Gains Deduction

Material participation test - 40.38(1)(e)

- (4) The individual participates in **two or more businesses, excluding rental businesses**, in the tax year and participates for more than **500 hours in all** of the businesses and **more than 100 hours in each of the businesses**, and the participation is not material participation within the meaning of one of the tests in subparagraphs 40.38(1)“e”(1) to (3) and (5) to (7).

Iowa Capital Gains Deduction

Material participation test - 40.38(1)(e)

- (5) An individual who has materially participated (determined with regard to subparagraphs **40.38(1)“e”(1) to (4)**) in a business for **5 of the past 10 years** will be deemed a material participant in **the current year**.

Iowa Capital Gains Deduction

Material participation test - 40.38(1)(e)

- (6) An individual who has materially participated in a **personal service activity** for **at least 3 years** will be treated as a material participant for life.

Iowa Capital Gains Deduction

Material participation test - 40.38(1)(e)

- (7) An individual who participates in the business activity for more than **100 hours** may be treated as materially participating in the activity if, based on all the facts and circumstances, the **individual participates on a regular, continuous, and substantial basis.**

Iowa Capital Gains Deduction

Common Errors

- Deducting:
 - All capital gains
 - Stock Sales
 - Gains on Personal Property
 - Inventory Sales
 - Self-Rentals
 - Limiting capital gains deduction to Schedule D Net

Iowa Capital Gains Deduction

Common Errors

- Other:
 - IA100 not included
 - IA100B-IA100F not reported separately for each distinct sale
 - Multiple Livestock sales can be combined 100A
 - Applicable form not submitted for gains from Pass-Thru entity
 - Applicable form not submitted for each year of installment sale
 - MFS taxpayers each must complete applicable form

Iowa Capital Gains Deduction

Common Errors

- Other:
 - NOL - 40.38(9)
 - Capital Gain Deduction is not allowed in computing NOL
 - When applying NOL not allowed in the carryback or carryover year.

Individual Income Tax Errors

Other issues

- Non-filer
 - Partnership
 - S-Corporations
 - Trust
 - 1099

Individual Income Tax Errors

Other issues

- Record Retention - Lack of Adequate Recordkeeping
 - 3 year review period
 - Non-filer unlimited review period
- [Extension of time to file](#)
 - 90% of tax paid by due date

Individual Income Tax Errors

Other issues

- Taxpayers with a spouse subject to offset or w/ tax debt
 - Consider using filing status 4
- [Iowa-Illinois reciprocal agreement](#)
 - Not included
 - Gambling winnings
 - Unemployment

Business Common Errors

Substantiation of expenses

- Ordinary and Necessary IRC 162
- Documentation
 - Clear separation between personal and business expenses
 - Multiple Business
- Vehicle expenses
 - Mileage logs
- Farm cash rent lease
 - Schedule E

Business Common Errors

- Underreported income
- No income reported
 - W-2 employee
- Business use of home
 - Form 8829
- Profit motive
 - The primary purpose of engaging in the business activity is for income or profit. IRC section 183(d) provides a presumption that an activity is engaged in for profit if the activity is profitable for 3 years of a consecutive 5-year period.

Business Common Errors

- Composite Returns
 - Include members below minimum income requirement
 - Creates negative tax due

Business Common Errors

- Sales and Withholding Tax
- Research Activities Credit
- Power of Attorney
 - Consider if spouse not a legal owner on return

Fiduciary Income Tax Errors

Other issues

- Following the fiduciary return instructions and including required documents (i.e. wills, trust instruments, federal Form 1041, etc)
- When requesting certificate of acquaintance
 - Return marked final
 - “Yes” box checked requesting certificate
 - No balance due on return
- Return not signed
- Missing information:
 - SSN
 - Probate number
 - Date of Death missing

Fiduciary Income Tax Errors

Other issues

- Incorrect FEIN
- POA
 - Missing on estate returns
 - Must be an individual
- Calculation errors
- Requesting certificate of acquaintance when unnecessary
 - Trust not in probate
 - Grantor Trust
 - Not final return
 - Balance due

Fiduciary Income Tax Errors

Other issues

- Certificates of Acquaintance (COA)
 - Goal of issuing w/in 60 days
 - Respond to information requests
 - Make sure all liabilities are paid in full
 - Make sure all 1040's are filed
- When filing multiple years, place most recent return on top if requesting COA

Fraud Prevention

Remote Access

- Use multi-factor authentication

Track Tax Return Submissions

- Compare to efin
 - Reconcile Daily, if possible
 - Watch for large # tax return rejections
 - Returns already filed
 - Contact IDR

Fraud Stats

Verified # Identity Thefts

370

Refunds Claimed

\$4.2 million

Fraud Stats

Receiving returns for individuals with no filing requirement
Elderly and disabled
IRS encouraged all to file to process stimulus payments

General Notes

Electronically filed W-2s & 1099s

- IDR will send a reminder to file to those subscribed to updates
- Subscribe using the button at the bottom of tax.iowa.gov
- W-2s and 1099s must be filed online using [GovConnectIowa](https://govconnect.iowa.gov)
- Only applies to W-2 and 1099 files containing Iowa withholding
- Learn more about filing in GovConnectIowa:
- Webinar on December 8, 2021: Electronic Submissions of W-2s and 1099s
- Register at tax.iowa.gov/webinars

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Questions?