

Death and Taxes

By Reg P. Wydeven
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Spring has finally arrived. The weather is warm, birds are singing, flowers are blooming and the long, cold winter is a fading memory. Alfred Tennyson, who was Poet Laureate of the United Kingdom during much of Queen Victoria's reign, once said that, "In the spring, a young man's fancy lightly turns to thoughts of love." Of course, Tennyson wrote this before the IRS imposed its deadline for U.S. citizens to file their taxes in the spring.

Our federal income tax was introduced with the Revenue Act of 1861, and it was passed to help fund the Civil War. The Wilson-Gorman Tariff Act of 1894 taxed incomes over \$4,000 at a rate of two percent. In 1895, however, the U.S. Supreme Court declared the Act to be unconstitutional, as it imposed a direct tax not only on income, but also interest, dividends and rent. The Court held this violated the clause in the Constitution that direct taxes must be apportioned.

In 1913, Congress ratified the Sixteenth Amendment to the Constitution, which gave the U.S. legal authority to tax all incomes without regard to the apportionment requirement and required that returns be filed by March 1. This quickly soured every young man's fancy. The deadline was changed to March 15 in 1918 and finally to April 15 in 1955.

So next year marks the sesquicentennial of our first income tax. While the IRS may celebrate by having cake and ice cream, or even some fireworks, most of us will be grumbling as we write our check to the U.S. Treasury. We'll be grumbling even more if we get in trouble for filing a fraudulent return, as the government is cracking down on tax evasion.

Since 2001, the Justice Department's tax division has obtained more than 400 injunctions alleging tax preparer fraud. In the past three years, the IRS has launched more than 600 investigations into tax preparers suspected of falsifying information.

The IRS warns taxpayers that if their preparer promises a fat refund that sounds too good to be true, it probably is. "Tax schemes are illegal and can lead to imprisonment and fines for both scam artists and taxpayers," claims IRS Commissioner Doug Shulman. "Taxpayers pulled into these schemes must repay unpaid taxes plus interest and penalties." Additionally, tax evasion is a felony with criminal penalties, including imprisonment for up to five years and a \$250,000 fine.

In response, the IRS recently introduced proposed regulations governing individuals who prepare tax returns. Starting in 2011, all individuals who are paid for preparing, or assisting in the preparation of, any federal tax return or claim for refund must obtain a preparer tax identification number (PTIN) and successfully pass an examination. However, certified public accountants, attorneys and enrolled agents are exempted from having to take the exam.

The proposed regulations authorize the IRS to charge a fee in connection with the issuance or renewal of a PTIN. Additionally, the proposed regulations provide that failing to include a PTIN on a return could subject its preparer to a \$50 fine for each failure up to \$25,000 each year. The IRS intends to flesh out the regulations more fully by year end.

If the IRS adopts the proposed regulations, it will mean a lot more headaches for tax preparers. To quote another famous English poet, William Shakespeare, "now is the winter of their discontent."

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