

Be Careful: It's Tax Season

Segment 1. I'm Grace Allison, and I'm a tax lawyer at the free Low Income Taxpayer Controversy Clinic at New Mexico Legal Aid. We help people facing all kinds of income tax problems, including IRS audits, wage garnishments for unpaid income taxes, and income tax-related identity theft.

Many of the problems I see every day could have been prevented if my clients had known more about how to choose a qualified income tax preparer.

The key word here is "Qualified." Qualified and credentialed preparers might include attorneys licensed by the NM Supreme Court, certified public accountants licensed by the New Mexico Public Accountancy Board, enrolled agents who have to take a written test administered by the IRS, and trained volunteers at free Volunteer Income Tax Assistance (VITA) or Tax Counseling for the Elderly (TCE) income tax preparation sites.

With these few exceptions, there are no minimum qualifications at the federal, state or local levels for income tax preparers in New Mexico. Anyone can set up shop—and they do!!

Although the Albuquerque City Council passed an ordinance in 2020 regulating Albuquerque income tax preparers, it deferred the effective date of the ordinance until July of this year. So no special protections this tax season, even if you live in Albuquerque.

As you may have guessed, I'm a big fan of free tax preparation by trained volunteers for those who meet the income or age qualifications: household income of \$57,000 or less—or over age 65—for VITA programs like Tax Help New Mexico, and over 60 with moderate or low income for TCE programs like the AARP Foundation's Tax Aide.

What about doing your tax forms yourself? You can get free tax preparation software at the IRS free file site, <https://www.irs.gov/filing/free-file-do-your-federal-taxes-for-free>. Remember, though, it's easy to make a mistake.

What about having a friend or family member do your taxes? I don't recommend it. Mistakes—or worse yet, identity theft--can cost your family thousands of dollars. It's happened to my clients over and over again.

Segment 2. As I mentioned in the first segment, I'm a big fan of free income tax preparation by trained volunteers for those who can't afford to hire a CPA or an enrolled agent to do their taxes.

Why?

Paid commercial tax preparers often offer, not just tax preparation, but also an enticing array of tax products such as refund anticipation loans and refund anticipation checks. The interest rates on these loans can run as high as 100% or more.

What's especially important for you to know this tax season is that interest runs from the time you walk out of the tax preparer's door until your "return" hits the tax preparer's bank account.

This tax season, many experts anticipate “returns” being delayed for weeks because the IRS has a backlog of 10.3 million tax forms from last year or earlier.

As a result, interest may run on your tax product for much longer than expected, something you likely really can’t afford.

Long story short: if you have to borrow from a tax preparer this tax season to pay for income tax preparation, borrow as little as you can. Don’t take out an advance on your whole “return.” Don’t believe claims that the advances are “interest free.” Even if it looks like no interest is being charged, there will be additional hidden fees, often equal to interest rates of 100% or more.

Segment 3. If I had to give you only three pieces of advice about tax season, what would they be?

First, choose a qualified income tax preparer: there’s an IRS directory of credentialed preparers at <https://irs.treasury.gov/rpo/rpo.jsf>. Remember: a recent national survey found 60 percent of tax forms prepared by paid preparers contained errors.

Second piece of advice: File on time, even if you owe and cannot afford to pay. There’s a \$450 failure to file penalty if you file your taxes more than 60 days after they’re due.

Third pieces of advice: Don’t get a cash advance on your refund or, as it is known in New Mexico, your “return.” If you can’t avoid borrowing, get the smallest cash advance you can.

Segment 4. So, let's suppose you've just walked into the tax preparer's office.

Don't be shy about asking questions. Is the preparer an enrolled agent required to pass a test given by the IRS and to take special tax classes? Are they an attorney licensed by the New Mexico Supreme Court or a certified public accountant licensed by the New Mexico Public Accountancy Board? Ask to see their certificates from the IRS, the NM Supreme Court or the NM Public Accountancy Board. It's ok to walk out if they refuse to show them to you. You're not being rude; you're just being smart.

Best yet: do some preparation ahead of time: there's an IRS online Directory of Federal Tax Return Preparers with Credentials and Select Qualifications.

<https://irs.treasury.gov/rpo/rpo.jsf>

By the way, a "notario" in New Mexico, unlike a "notario" in Mexico, is not an attorney. Most notarios in the U.S. are totally unqualified to prepare taxes.

Your second set of questions should be about experience: how long exactly have they been preparing taxes for individuals? There's a big difference between three weeks and 30 years!

Your third set of questions should be about cost—you need to know what tax preparation costs will be before your taxes are prepared—and walk out if those costs are too high.

What will it cost to have your tax forms prepared if you choose a paid preparer? According to news reports, the average price per form in 2018 was \$147 at H & R Block and \$191 at Liberty

Tax Services. A single tax filing for the IRS or New Mexico Taxation and Revenue may require three or more separate forms so this can be expensive.

Ask about costs at more than one provider. If you're going to pay for income tax preparation, there's no substitute for comparison shopping. You would comparison shop for a refrigerator---do the same for tax preparation!

Some income tax preparers justify high fees by promising a big "return." Walk out if the quoted tax preparation fee is a percentage of a promised "return." Income tax preparation fees should be based solely on the difficulty of tax preparation.

And walk out if the income tax preparer says they won't prepare your taxes unless you also buy a mattress or a car or borrow against your "return." There are always other alternatives.

Also walk out if the preparer won't sign your return or requires payment in cash.

These are all great big red flags.

Segment 5. It's important to know that not all the work at tax preparation time falls at the feet of the income tax preparer. You have to do your part as well.

The fine print on your tax forms says that, by filing, you are swearing that all the information on those forms is complete and correct. If it isn't, the federal and state tax agencies can impose stiff penalties, for which you will be responsible.

In addition, you can lose lots of money if you fail to give your preparer accurate information. This is particularly true this year. Why? Your 2021 federal income tax form is where to claim any child tax credit that you should have received for 2021 but didn't. Use that form also to claim whatever part of that third economic stimulus payment you should have received in 2021 but didn't. If you don't claim those missing dollars on your 2021 return, you'll lose out. But you can't just make up a number.

The IRS is sending out special letters early this year showing how much of the child tax credit and how much of the third stimulus payment you received in 2021. In tax speak, they are IRS Letter 6419

(<https://www.irs.gov/individuals/understanding-your-letter-6419>) and IRS Letter 6475 (<https://www.irs.gov/newsroom/irs-sending-information-letters-to-recipients-of-advance-child-tax-credit-payments-and-third-economic-impact-payments>.)

Don't throw these letters into a corner—or worse yet, into the trash. Take them to your income tax preparer so that he or she can do the required “reconciliation” on your 2021 taxes between what you should have received and what you did receive.

Segment 6. In our last segment, we talked about IRS Letters 6419 and 6475, which will tell your preparer how much of the 2021 Child Tax Credit and the 2021 Economic Impact Payment you actually received in 2021. We talked about how important it is to take these letters to your preparer.

- Also take along your Forms W-2 and Forms 1099 showing all of your income for 2021, including any cancellation of indebtedness income.
- If you are in business for yourself, take along a summary of your records, showing your income and expenses.
- Don't forget the social security numbers for all of your dependents.
- Also take along a list of your medical expenses (not reimbursed by insurance), your child care expenses, and your charitable donations. There's a special deduction this year for charitable donations that's available to you even if you don't itemize.
- Also this year, you may be able to increase the amount of your earned income tax credit by using numbers from your 2019 federal income tax forms. Take those 2019 forms with you as well.

Segment 7. In prior segments, we have talked about how to find a qualified tax preparer, how to comparison shop among tax preparers, and also what papers that preparer will need to do your tax forms in 2022.

So, let's suppose you've followed all our advice and the tax preparer is ready for you to sign off on your tax forms. You're done, right? Wrong!

It's your responsibility as a taxpayer to check out those tax forms carefully before signing the e-filing authorizations. So what should you look for?

Check the number of dependents listed at the top of your IRS Form 1040.

Ask your preparer to show you the amount of total wages he or she reported on your IRS Form 1040. It should match the amount on your Forms W-2.

If you are in business for yourself or are an independent contractor, you probably receive one or more Forms 1099. Your income tax preparer should report that self-employment income and the related business expenses on Schedule C of your IRS Form 1040. Under the tax laws, those business expenses can reduce your taxable income, but only if they are “ordinary and necessary.” Before your completed taxes are filed, read Schedule C carefully to make sure your preparer has not tried to reduce your taxes by making up business expenses that don’t exist. It’s happened to my clients and they’ve gotten into big trouble with the IRS.

Remember: the amount of your “return” is determined by the income tax laws. A preparer who “gives” you bogus business expenses to reduce your taxable income—or who gives you one or two extra children to increase your family-based tax credits—is breaking the law. They won’t be around to pay the extra taxes, penalties and interest resulting from their bad advice!

Finally, check the bank routing information on lines 35 a, b, c and d of the 2021 Form 1040 and know where your “return” is being deposited. Several of my clients have had “friends” or family members do their taxes---and never reviewed their tax forms before they were filed. Too late, they discovered that their “returns” went into the preparer’s bank account!

A special note here to those who live in Albuquerque: If you’re using someone else’s bank account because you don’t have one,

check out the Bank on Burque option on the City's website.
<https://www.cabq.gov/legal/bank-on-burque/bank-on-burque-coalition>

Segment 8. What would you do if you went to get your taxes prepared and your income tax preparer refused to give back your tax documents—your Forms W-2 and 1099, and your children's social security cards and birth certificates? Has that happened to any of you? It's happened to my clients.

Call the police, right then and there.

These documents belong to you and no one has the right to steal them.

Also never leave the income tax preparer's office without a completed copy of your taxes.

Letting the preparer complete the forms after you leave or approving a blank form means that he or she can make changes to your income tax forms that you would never approve.

Dishonest preparers are not the only reason you need a copy of your taxes. How are you going to know whether you received your full "return" if don't have a copy of what was filed? How are you going to defend yourself in an IRS audit if you don't have a copy of both your tax forms and your back-up material?

One last reason to hold on to your tax forms. When you retire, your social security benefits will be determined by your lifetime earnings. What better proof of your lifetime earning than your tax forms?

Segment 9. In prior segments, we've seen why, as far as tax preparation goes, "free" may be better.

Tax Help New Mexico serves those with household income of \$57,000 or less —as well as those 65 or older regardless of income. Tax Help's trained volunteers will be preparing taxes most Saturdays from January 29 through March 19, with appointment signup available now at

<https://www.uwcnm.org/tax-help-new-mexico>. **All tax preparation services are by appointment only.** For questions about tax preparation events, call the Tax Help Resource Hotline at 505-247-3671, ext. 265.

AARP Tax-Aide serves those over 60, regardless of income. **They, too, require appointments for all income tax preparation.**

Sign up will be available soon at <https://taxaide.aarpfoundation.org>

You may be able to find additional free income tax preparation sites by calling the IRS at 800-906-9887.

The quality of these free tax preparation services is generally much better than what you could afford to pay for. A real plus is that with no tax preparation fees, there's no need to borrow against your "return." Borrowing against your "return" is very expensive.

If you can't make it to a free tax preparation site, and you can afford to pay a reasonable tax preparation fee, you can find an enrolled agent by going to the website of the national association of enrolled agents, <https://taxexperts.naea.org/>

Put in your zip code and you'll find the names and addresses of enrolled agents in your area.

By the way, generally, very few of the personal income tax preparers at the big tax preparation franchises are enrolled agents, certified public accountants or attorneys. You can draw your own conclusions from that!

Segment 10. What if the IRS sends you a big fat tax bill because the income, expenses or dependents reported on your taxes were not correct? Call us at the Low Income Taxpayer Clinic at New Mexico Legal Aid. We can tell you how to report tax preparer misconduct to the IRS and to the police. And, if you meet our income and asset limits, very likely we can also help you with that big fat tax bill.

The basic question is, of course, "why file?" It may be beginning to sound like a lot of work to some of you. Any thoughts?

One reason is to avoid bad things happening: like the \$450 failure to file penalty.

And here's another reason: If your employer takes income taxes out of your paycheck, those withheld taxes may be greater than your actual tax liability. If you don't file, the IRS or New Mexico Tax & Rev will just keep those extra dollars. If you don't file, you'll never get them back!!

Finally, one very big reason to file is to claim thousands of dollars in tax benefits, many of them child-based. This is what will give many of you a big "return" in 2022. I'll tell you more

about these special tax benefits for low and middle income taxpayers in our next segment.

Segment 11. In our last segment, I promised to tell you about the special income tax benefits that can give low and middle income taxpayers big “returns” in 2022.

For those with children, the most obvious is the special 2021 child tax credit: \$3,600 for each child under 6 and \$3,000/child for each child 6 through 17. By statute, half of the expanded child tax credit was supposed to be delivered monthly to you in installments from July through December of 2021. You can only get the other half by claiming it in 2022 on your 2021 federal income tax forms. In addition, if you failed to receive any of the monthly payments to which you are entitled, you can claim those amounts on your 2021 federal tax forms. Keep in mind that this year, in contrast to prior years, you do not need to have earned income in order to receive the full child tax credit.

Second on the tax benefit hit parade for low and middle-income taxpayers is the earned income tax credit, which for 2021 can range from \$1,502 for those with no qualifying children to \$6,728 for those with three or more qualifying children. Note that for 2021 only, workers 65 and older without qualifying children are also eligible for the EITC. Also eligible to receive the earned income tax credit for 2021 even though they are under age 19 and do not have “qualifying children”: homeless or former foster youth age 18 and over.

Third, the Child Care Credit was greatly expanded for 2021, increasing to take into account \$8,000 of child care costs for

one child and \$16,000 for two or more children. And for 2021 only, you can receive this credit as a refund if you have no income tax liability.

Finally, New Mexico has a very generous Working Families Tax Credit, claimed on the New Mexico personal income tax Form PIT-1, equal to 20 percent of the federal earned income tax credit.

Segment 12. Everybody wants to know when they'll get their "return," but here's the thing: when you file, you can't rely on receiving your "return" on a specific date. If the IRS audits your tax forms, if there's an IRS computer glitch—or if there's a math mistake—your "return" will be delayed.

The IRS will begin processing electronically filed 2021 tax forms on January 24. But—and this is a big "but": the IRS will not begin processing tax forms claiming the Earned Income Credit or the Child Tax Credit until February 15. Why? Because Congress decided that the IRS needed some time to make sure those big tax benefits were going to the right families. The amount of money at stake is staggering: \$62 billion in earned income tax credit alone nationwide, with about \$500 million of that going to families in New Mexico, an average of roughly \$2,500 per family.

Segment 13. Let's say you finally get your "return" in mid-March. Are you done?

No: If your family is going to get the most out of a \$3,000-\$9,000 "return," you need to think very carefully about how

much you're getting and what you're going to do with it. And that means thinking about your budget.

Don't groan: We all have a budget, whether or not we've thought about it, because we all have money coming in (that's cash flow) and money going out (that's expenses). Budgeting your "return" simply means thinking about how your "return" affects your cash flow.

If you are working, in addition to your "return", your cash flow includes wages and/or self-employment income; it may also include public assistance such as SNAP.

One way to budget your "return" is to use it to pay down credit card debt. Another alternative is to put all or part of your "return" in a bank or credit union account and plan to slowly spend it down, month by month, over the entire year. That way, your "return" can keep working for you for much longer and will be there for your family in an emergency. Again, if you live in Albuquerque and don't have a bank account, look up that Bank on Burque information on the City's website.

<https://www.cabq.gov/legal/bank-on-burque/bank-on-burque-coalition>

I've given you a lot of information in this series. What do you absolutely need to remember? Just three things:

*Choose a qualified income tax preparer—use either a free tax preparation service staffed with qualified volunteers or, if you can afford it, an enrolled agent credentialed by the IRS.

*If you do borrow against your "return," borrow as little as possible.

*Last but not least, save at least part of your “return.” Use it slowly to increase your cash flow over the next 12 months. By adding a little bit of your “return” to your other monthly cash flow, you will find it easier to pay monthly expenses—and to save longer-term for your family and their future!

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