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Filing for prior years or amending previously filed returns

Sometimes it makes sense to file for prior years or amend previously filed returns.

Generally, to claim a refund you must file an amended return within three years of the due date of the original return or within two years from the date you paid the tax, whichever is later.

If you are filing an amended return to report and pay additional taxes you may file at any time.

You may file an amended return to establish your basis in assets (the original cost), so you can later take depreciation deductions, but only within the time allowed to file an amended return. If you failed to take a depreciation deduction in a year earlier than allowed for an amended return, you must report the basis of the asset as if you have taken allowable depreciation beginning with the first year the asset was in use in the business.

You may file an amended return to make a correction showing more taxes are owed or to make a correction showing that less taxes are owed, and you may file amended returns to claim the EITC.

I have been farming for more than five years and I have never filed income tax returns at all. Do I need to file for those past years? Should I file for those past years?

- Were you required to file? If so, then you should file.
- Would you have owed tax? If so, then you should file.
- Would you have received a refund or an Earned Income Tax Credit payment if you had filed? If so, you must file within three years of the original due date to claim your refund or credit.

The statute of limitations on audits and assessing additional tax remains open indefinitely if the taxpayer fails to file a return or files a false or fraudulent tax return. As long as the taxpayer has filed a return which is not false or fraudulent the statute of limitations begins running when the return is filed (not when it was due). For general matters the IRS must audit within 3 years. If there has been a substantial (25% or more) understatement of income the IRS has 6 years to audit. The statute of limitations for collections is 10 years from when the tax was assessed.

I have been farming for more than five years but I have never filed taxes for my farm. I did file taxes to report my other income, I just did not file a Schedule F to report my farm income or expense because I knew it was going to be a loss. Do I need to file for those past years?

- Did you pay income tax in those years? If you can show that you were engaged in a legitimate business with the intent to profit, you can amend the prior three years and your farm losses will reduce your other income resulting in lower total taxes.
- Did you build or purchase business assets (orchard, barn, tractor, fences) during that time? If so you should consider filing to establish your basis in those assets and to take a deduction for the depreciation expense associated with those assets.
- If the amended return shows prior expenses that reduce your prior taxes owed by more than the cost to prepare the amended return, you come out ahead.

This resource is derived from materials developed by the University of Arkansas School of Law Agricultural Tax Training as part of the Agricultural Financial, Tax and Asset Protection (AgFTAP) partnership with the University of Arkansas Southern Risk Management Education Center and others.