How to Make Money from Tax Returns That Are Too Old to Amend For a Refund

A tax return was filed more than three years ago, you can't amend it to change that year's tax bill. But you may be able to change what you reported on that year's return to save taxes in later years. This is an opportunity that many people overlook. How to use it...

**carryover opportunities**

Many tax return items can be carried over from one year to the next. *Examples...*
- Capital losses, which are deductible against salary of only $3,000 a year.
- Net operating losses.
- Charitable contributions that exceed percentage-of-income deduction limits.
- Passive activity losses from real estate that exceed passive income.
- Alternative Minimum Tax (AMT) credit carryovers.

Obviously, the calculation of a carryover item in one year affects not only that year's return but also the amounts carried over to later years.

**Key:** If a carryover item was mis-calculated on a return that is more than three years old, it can be corrected now to correct the amount of tax reported on returns filed within the last three years.

*Example:* On a 1995 return filed in April of 1996—just over three years ago—you reported the sale of a capital asset at a break-even price. But in a recent review of your records you just discovered that you miscalculated your basis in the asset, and really had a $9,000 loss.

You can now change the amount reported on the over-three-year-old

**do what the IRS does**

The IRS can also go back more than three years to disallow an item that leads to carryforwards in later years.

*Example:* When an individual claimed carryforward investment losses and tax credits from a past investment in a partnership, the Tax Court let the IRS go back more than three years to re-determine the original loss and credit amounts—sharply reducing them. The IRS couldn't change the original year's tax bill, but the individual lost his carryforwards. *(Robert J. Reilly, TC Memo 1989-312.)*

Since the IRS is willing to use this tactic, you should be, too—and the IRS itself says you can.

**Case:** A taxpayer wanted to increase a net operating loss (NOL) that originated on a return filed four years ago. Being unsure of how the statute of limitations applied, the taxpayer asked the IRS for a private ruling on the matter. *IRS ruling:* The taxpayer can increase the loss reported four years earlier to increase the NOLs carried over onto later-filed returns *(Letter Ruling 9504032).*

Types of tax-saving carryovers you may increase from a prior year...
- Capital loss carryovers.