

## Your Retirement Plan Exposes You to a \$150,000 Penalty

### Introduction

How would you like to owe the IRS a \$150,000 penalty because you failed to file a simple two-page form? It can happen all too easily if you have a solo 401(k) or another self-employed retirement plan.

If you're self-employed and you have a qualified retirement plan, such as a solo 401(k) for yourself (and your spouse, if applicable), Form 5500-EZ must be filed with the IRS once the assets in the plan exceed \$250,000. The form is usually due July 31 each year.

You—the business owner—are the plan administrator or plan sponsor and the one responsible for filing Form 5500-EZ. You can use a third-party administrator to manage your plan, complete Form 5500-EZ, and even file it with the IRS, but you continue to have, in the absence of a rare contractual arrangement, the legal responsibility for a correctly and timely filed 5500-EZ.

**Beware.** If you fail to file Form 5500-EZ, the potential penalties are substantial: \$250 per day, up to a maximum of \$150,000 for each unfiled return.

Fortunately, it's easy to avoid the big penalties. The IRS has an amnesty program called the Late Filer Penalty Relief Program. All you have to do is simultaneously file all the Form 5500-EZs you failed to file and pay a fee. The fee is \$500 for each delinquent return, up to a maximum of \$1,500 per plan. \$1,500 is not free, but it is likely much less than the non-filing penalty.

You won't qualify for the amnesty program if the IRS has assessed a late filing penalty against you and issued a penalty notice. In this event, your only recourse is to attempt to get the IRS to remove the penalty for reasonable cause. If you're successful, you won't have to pay the IRS anything. Grounds for relief include natural disasters, inability to obtain records, serious illness or death, or other reasons showing your failure to file was not due to a lack of ordinary business care and prudence.

You can forgo the amnesty program and make a reasonable cause request if the IRS has not assessed the penalty. If you win reasonable cause relief, you won't pay the IRS fee. But this is risky. If the IRS denies your reasonable cause request, you'll no longer qualify for amnesty because the IRS will assess the penalty for the delinquent return(s).

## Turn Your Corporate Vehicle into a Tax-Smart Asset

If your S or C corporation owns a vehicle that you also use personally, there are important tax rules you need to follow—and smart planning can help you save significantly.

Let's say you use a corporate vehicle 80 percent for business and 20 percent for personal use. The IRS doesn't allow "free" personal use. You either:

- include the value as W-2 income, which increases your tax burden; or
- reimburse the corporation, which often results in lower taxes and no payroll tax implications.

Here's why this matters: if structured correctly, your corporation can deduct 100 percent of the vehicle's costs, including depreciation, fuel, insurance, and maintenance—even with some personal use. But there are conditions.

If business use falls below 50 percent, your corporation loses access to accelerated depreciation methods such as Section 179 and bonus depreciation and must use straight-line depreciation instead.

To value your personal use on vehicles that cost more than \$61,200, your corporation must use either the IRS's lease valuation table or a fair-market lease equivalent—plus the actual cost of fuel.

Failing to handle this properly—especially if you wait until after year-end—can create tax headaches, including amended W-2s or non-deductible dividends.

The good news? We can help you get this right. From computing personal use to setting up year-end reimbursements and ensuring full corporate deductions, we'll make sure your vehicle is a tax asset—not a liability.

## Personal Vehicle Used for Business Can Produce a Big Surprise Deduction

If you've used your personal vehicle for business—whether you're a sole proprietor or you received mileage reimbursement from your S or C corporation—there may be a valuable tax deduction waiting for you.

When you use the IRS standard mileage rate (or when your corporation uses it to reimburse you), the mileage rate is not just a substitute for gas and maintenance. You're also claiming "embedded depreciation"—a hidden deduction built into the mileage rate.

Here's where the surprise comes in: when you sell or trade in that vehicle, you could be eligible for a significant additional deduction tied to that depreciation.

Let's say you bought a \$50,000 vehicle in 2021 and used it 80 percent for business. Over the past 4.5 years, you have accumulated nearly 40,000 business miles and deducted or been reimbursed based on the IRS mileage rate. You then sell the vehicle for \$20,000.

By calculating the business-use portion of the sale and subtracting your embedded depreciation, you might unlock a \$12,937 ordinary loss—fully deductible against your other income, under Section 1231 of the tax code.

This isn't a tax loophole—it's standard tax law, but it's often overlooked. And it only applies if your vehicle was:

1. deducted or reimbursed using the standard mileage rate,
2. used at least partially for business, and
3. sold or traded in after accumulating depreciation.

## Why Landlords Should File Form 1099-NEC

If you own rental property, you may have heard that you're not required to file Form 1099-NEC for contractors, such as plumbers or handymen. While that's often true, choosing not to file could be costing you valuable tax savings.

Filing 1099s helps position your rental activity as a trade or business—a critical step if you want to claim the 20 percent Section 199A deduction or deduct repairs under the de minimis safe harbor.

Here's how it works:

- Section 199A allows a 20 percent deduction on net rental income—but only if your rental qualifies as a business. Filing 1099s supports that claim, and it can be worthwhile. For example, \$20,000 in rental income could mean \$4,000 in deductions—saving you nearly \$1,000 at a 24 percent tax rate.
- The de minimis safe harbor allows you to deduct repair and maintenance costs (up to \$2,500 per item) immediately rather than depreciating them over several years. But again, this applies only if the tax code treats your rental activity as a business.

The IRS has made clear that failing to file 1099s may weaken your ability to claim these benefits. Fortunately, this is something you can address proactively. We can help you evaluate your rentals, determine whether you qualify, and handle the necessary filings and documentation. It's a small step that could lead to decent savings.

## Life Insurance: You Don't Have to Die to Collect

Could you use a quick infusion of tax-free cash? Your life insurance policy may provide one. And you don't have to die to collect.

To access money from your life insurance policy without dying, you must have the right type of policy—a permanent life insurance policy that lasts your entire life, such as whole life, universal life, variable life, or indexed universal life. A cheap term life policy doesn't provide any lifetime cash benefits.

Permanent life insurance includes a savings component. The insurance company puts a portion of your premiums into a cash value account, and this sum grows over time on a tax-deferred basis.

There are several different ways to tap into your policy's cash value while you're still alive:

- You can make partial withdrawals from your policy's cash value account. Many insurers cap withdrawals at 75 percent to 90 percent of the total cash value. Withdrawals up to the account's cost basis (total premiums paid) are tax-free. You pay tax at ordinary rates on withdrawals over your cost basis. You don't have to repay the withdrawals, but they will reduce the policy's death benefit if they are not repaid.
- You can surrender your policy to your insurer, who will pay the total amount of the cash value account, less fees (which can be substantial if the policy is less than 10 to 15 years old). The payment is taxable at ordinary income rates to the extent it exceeds the total premiums paid.
- You can take out loans from your insurer using your policy's cash value as collateral. Such loans often have lower interest rates than bank loans, and they are tax-free. Borrowing from your insurer does not affect your policy's cash value—it will continue to earn interest and grow tax-free. You aren't required to repay the loan, but if unpaid, it will reduce your policy's death benefit.

You may be able to sell your policy to a third party, who will then make the premium payments and collect the death benefit when you die. This option is available only to older policyholders (over age 65) or those who are terminally ill or disabled. The sale proceeds for life settlements are taxable to the extent they exceed the premiums paid. But "viatical settlements" (those made by terminally ill or disabled policyholders) are tax-free.