Hi my name is William Carter, and I’m here today to talk to you about some common mistakes on personal income tax returns for the NYS Department of Taxation and Finance.

When mistakes are made; they slow down the processing of the return and the issuance of tax refunds. They also result in extra communications to you taking away time from your other clients as well as other communications to your client. They will be none too happy when things get delayed.

Most of these mistakes cannot occur if you e-file.

And it is important to remember that returns for years 2012, 2013, and 2014 can still be e-filed. If you need to do an amended return that must still be done on paper.

Let’s take a look at some of the general mistakes and common problems we see on tax returns.

The beginning of the return is where we find the taxpayer’s personal information, which includes their name, and address, as well as information about their spouse and dependents.

We see many problems when tax preparers take taxpayer information off W-2’s or perhaps previous years returns. Incorrect social security numbers are not uncommon. So please always check that the SSN that you are using is correct. Please also check the spelling of the taxpayer’s name. You want to be equally careful with all dependent information.

And finally for the mailing address, you must use the current address that is the address they would like their refund or other information mailed to. It is important to note if you are using an IT-201 the permanent address must be a New York State address. And for that reason we pre-printed NY in the state blank (section).

For 2013 we stopped a great number of forms for missing signatures. Please keep in mind that the return must always be signed by the taxpayer. If it is a joint return both taxpayers must sign. Returns that are not signed will not be processed. And returns that are received unsigned are unproccessable and are not considered filed until we get the signatures.

When we receive returns without signatures we have to send out a flasher. Until that flasher is returned processing will not continue. If the flasher is not returned you return will not be processed.

Please remember that amended returns also have to be signed.

Different returns go to different addresses.

When the return is sent to the wrong address it has to be manually rerouted, causing additional problems. So you need to be very careful to mail the return to the proper New York State Tax Department address. The mailing address information for any given return is always included in the instructions for that return. If you are using a private delivery service, such as UPS or FedEx please check Publication 55 for instructions on those addresses.

Extension requests will go to different addresses as well. As you can see, there are two extension requests for the IT-370, one with and one without payments.

We see a lot of funny things in the mail. We receive payments and returns for the IRS and other states all the time. We even receive returns from taxpayers who send us a picture of themselves and the tax return and we're not really sure why.

In the old days all the preparer had to do was send the social security number or an EIN to prepare a tax return, this is no longer the case. Every taxpayer must now have at least two ids, the IRS PTIN and the New York State NYTPRIN, many will also have an EIN that must be used. Please put all your correct information on the return and sign the form you have prepared.

The fastest and safest way to receive a refund is via direct deposit. On that subject, it is very important to include and verify the routing number. The routing number identifies the taxpayer's bank. It is also very important to confirm the account number which identifies the taxpayer. Do not rely on past years information because when banks are bought out they change their routing numbers.

It is not uncommon for taxpayers to change their account numbers. So please check and double check the routing and account numbers. The same is true for taxpayers that owe money and they can pay that money via the routing and account numbers.

If a taxpayer has requested a Refund Anticipation Loan or a RAL, it is important they receive instruction from you about exactly what will happen. We receive calls from taxpayers frequently, looking for their refund when in fact they requested a RAL. We have to refer those callers back to their preparer.

Please always give a copy of the taxpayer’s returns to them when you prepare.

We will provide copies of tax returns but we charge a price per every page we send. The quickest and easiest way to get copies of returns is to encourage your taxpayers to file electronically. They can then create an Online Services account and access their returns at any time and of course for free.

Next, I would like to talk to you about a slightly different type of mistake. And this specifically has to do with the way preparers practice their profession. Of course, to prepare a tax return, tax preparers must rely on clients to give them the information.

But what if the client's information is not complete or accurate? Is the taxpayer responsible for the resulting inaccuracies on the return? Tax preparers sometime state that they have no choice but to rely exclusively on what their clients tell them. To a certain extent this is true. In most circumstances Tax preparers have no reason to doubt the information they receive from their clients, they are entitled to rely in good faith on that information. But what they may not know, is in New York there is a requirement of due diligence for Tax preparers. The tax preparer legislation was adopted in 2013 and it provides that in connection with any return prepared by the tax return preparer, the preparer must exercise due diligence. When you know or have reason to believe that information provided by your client is not accurate or complete then you should consider the obligation of tax preparers to exercise due diligence.

Later, I will address a more specific due diligence requirement that applies in the particular context of the Earned Income Tax Credit.

There are a few changes on these forms due to the Family Tax Relief Advance Payment, the Real Property Tax Freeze Credit and the New York City Enhanced Real Property Tax Credit.

There are three tax jurisdictions in New York: New York State, City of New York and City of Yonkers. We often see discrepancies on returns from the City of New York and Yonkers in regards to residency. We have to stop a lot of these returns for manual review. It is not unusual to see the taxpayers who live in Queens, Brooklyn, Bronx, Staten Island or even Manhattan claim they don't live in New York City. There are two main places we check for residency:

The taxpayer's address and the taxpayer's W-2. If the taxpayer's address information shows they live in either New York City or City of Yonkers then that tax return should usually indicate New York City or Yonkers residency and hence the taxpayer should be subject to the local taxation. If the taxpayer is a nonresident alien and the special condition code E4 has been set on the return the taxpayer is not subject to New York City income tax however they are still subject to New York State tax.

If the taxpayer maintains living quarters in New York City for all or part of the tax year but they indicate the principal abode is in a different county or even out of state, they would put that information in section E. They will also need to know how many days they spent in New York City. If the taxpayer abode is in New York City for all or part of the tax year enter that information in section F. Yonkers residency is not noted in this part of the tax form. Yonkers residency and non-resident earnings tax are indicated by the reporting of tax due.

What happens when a taxpayer has a New York City or Yonkers local withholding but they are either not a resident or have lived there for only part of the year? You might use the Y-203 to claim the income tax for nonresidents of

Yonkers who work in Yonkers or the IT-360.1 which is the *Change of City Resident Status* and because we see a lot of mistakes on this form we'll take a look at it right now.

If the taxpayer has moved into or out of New York City or Yonkers during the tax year they need to use form IT-360.1 this form will allocate their income between the resident and non-resident periods.

Now we are into a part of the return that is mostly reviewed in audit. The federal income on the 1040 should match the federal income on the 201 or form IT-203.

As you know New York is a federal conformity state and the completion of the New York returns begins with a direct copy over from the 1040.

We routinely see there is confusion about where to claim business and job expenses.

Self-employed business expenses are claimed on the IRS schedule C; *Profit or Loss from Business or Profession*.

The net income or loss from schedule C is then entered on Line 6 of the New York State return. This would include depreciated items such as computers or office furniture that are expected to last more than one year. A copy of the IRS schedule C must be included with the New York State return. Job expenses are claimed on IRS schedule A; *Itemized deductions*.

New York State tax deductions are itemized on form IT-201-D or IT-203-D.

Certain rules must be met for reoccurring business loss to be allowed as a loss. If not, the Tax Department will construe the business as a hobby.

The Tax Department always verifies that when a taxpayer has section 8 housing both the income received from section 8 as well as the taxpayer's contribution to the rental income both must be reported on federal schedule E.

Line 18 of the New York State tax forms must match line 36 of the 1040. This match is verified between the IRS and New York State.

Here are some other mistakes we see.

Don't forget to use the educator expenses if your client is a teacher. The taxpayer 501(c) cannot be claimed as a federal adjustment to income if the pension plan was a 414(h) or a 403(b) or a deferred compensation plan and so on.

Personal property rental expense can only be claimed if it is less than or equal to the personal property rental income claimed.

In general there is conformity between the federal and state tax returns but the modification section is one area where there is a difference. For residents of New York

State interest income on bonds invested outside of New York State are taxable in New York.

This is clarified in full in Taxpayer Services Bureau memorandum 95(4)I. You would add the amount from W-2 box line 14, listed as the form 414(h), to line 21 or add the amount from W-2 box 14m listed as IRC 125, to line 23.

When IRAs and pensions are paid to taxpayers as income they can be either fully or partially subtracted in the New York State subtraction section. Pension and retirement amounts subtracted should be less than or equal to those amounts claimed above on Line 9 or 10.

If the amount on Line 9 or 10 was from a New York State, New York local or federal governmental pension plan the entire amount of that part of the taxpayers pension or annuity can be excluded from the taxpayers income. That is done on line 26.

If there is a retirement or pension amount that was NOT from a New York State, New York local or Federal governmental pension plan or IRA; then up to $20,000 may be excluded and that is done on line 29. Of course~~s~~, it is important to realize these are payments received after a taxpayer has achieved age 59 ½ years.

If he or she turns 59 ½ during the tax year, that $20,000 is subject to proration.

Itemized deductions are routinely reviewed by the New York State audit department.   A lot of people seem to think that a dental or medical pre-tax reduction under an employer sponsored health plans are eligible as an itemized deduction. It is not. It is a pre-tax deduction and can be found on a W-2 in box 12. A common deduction is gifts to charity. These charities must be qualified charities; not individuals like families, friends, political organizations or candidates; follow federal and New York State requirements on all gifts to charity as well as job expenses.

Reference IRS Publications 535, 463, and 587 to clarify what business expenses are able to be claimed in the itemized deductions, and note that some job expenses like meals with a clients are only allowed up to 50% of the total expense.

As far as College Tuition Credits go, these New York State credits are not for graduate students. Sometimes we see people doubling up on the college tuition credit taking it both as an itemized deduction and a credit. You cannot claim the college tuition itemized deduction and ~~a~~ college tuition refundable credit for the same student in the same year.

Here is another problem we see over and over and I doubt any of you tax professionals actually make this mistake. Since 1988 New York State taxpayers were not allowed to claim personal exemptions, only dependent exemptions.

The Resident Tax Credit; use form IT-112-R to claim the New York Resident Tax Credit. This allows a credit toward your New York state tax based on tax actually paid to another state.

It is important to keep in mind if the entire amount of withholding or prepayments made to the other state is sent back as a refund, there is no basis for the credit. It is also important to realize you must attach a copy of the other state's tax return for your 112-R to be processed.

Line 42 of the IT-201 or line 47 of the IT-203 are New York State non-refundable credits. These are credits that can only decrease the tax down to 0. Any amount over and above is not eligible for a refund. There are many of these such credits.

Here are two of the common mistakes that we see. Disability income is not eligible for the claim for long-term care insurance credit and the solar energy system equipment credit is only for the taxpayer's primary residence. It's only for the system not just for products. Please do not forget to attach the credit form to the return. If the form is missing or incorrectly filled out, the taxpayer can be denied all or some of the credit.

To continue on the subject of payments and refundable credits; a refundable credit means that even if the taxpayer owes no tax, they may get this amount sent back to them as a refund.

Something we see all the time, are problems with the letter “s” or “c” when it comes to NYC and NYS. Some people think we are asking for the New York State amounts twice. We are not. Or the information simply gets put on the wrong line. So please check that all New York State and New York City credits, as well a New York State or New York City withholding are in fact placed on the right line.

For the dependent care credit use form IT-216. This credit is routinely reviewed by the Tax Department. You may wish to advise taxpayers to keep copies of the cancelled checks for payments to the care providers. Additionally, proof of a relationship, and proof that the taxpayer and the dependent share a residence are often requested.

Certain situations are not eligible as the slide shows. Form IT-216 is often not completed correctly. The information about the care provider, the dependents’ names, birthdays, and social security numbers must be complete and accurate.

Dependents can only be claimed on one return in one tax year.

Like the dependent care credit, the Earned Income Credit or EIC claimed on form IT-215 is often reviewed by the Tax Department. If there are any issues, taxpayers will be asked to prove residency, dependents, and earned income.

As many of you already know, the IRS has a new initiative on EITC due diligence. This means the tax preparers are required to ask questions of the taxpayers from IRS form 8867. This form must be filed with any federal return that has an earned income tax credit. I have included the Internet address for the IRS EITC due diligence page.

Are you wondering what the difference is between the EITC and EIC? The word "tax". Right now the IRS calls it EITC while New York calls it EIC.

We get a lot of returns where the credit forms are not included. In these cases, we will not allow a credit. So please, do not forget to attach credit forms.

There is a unit at the Tax Department which looks at all withholding tax discrepancies. They match the information we get from employers to the information on income tax returns.

Withholding tax is paid to the department by employers and is shown on a W-2 or sometimes on form 1099.

It is not uncommon to see withholding for the state to be repeated in the New York City line or to see the New York State withholding to be put on the estimated tax line.

It is important to realize that estimated tax is not withholding tax. Estimated Tax is usually paid with form IT-2105; the quarterly voucher for estimated tax. As well as with IT-370, the *Application for Automatic Six Month Extension for Time to File for Individuals*. Sometimes estimated tax is sent in with the following forms; IT-2658 and IT-2663.

So here is some information you would want to be aware of.

If estimated tax payments, extension payments, or return payments are received after the estimated tax return due date, then the taxpayer could conceivably overpay their total tax liability and still be required to pay a penalty for failure to pay estimated tax timely.

Sometimes payments can go astray. We ask that you make sure your clients always put their social security number and the tax year on any checks or other payments sent in to the Tax Department.

A taxpayer can also accidently attempt to make a payment toward a liability and inadvertently have that payment put into estimated tax, leaving the bill unpaid. Taxpayers should check their bank account to make sure their payment has been cleared and also check with Online Services or by phone at the Tax Department to make sure their records have been updated and the money has been properly applied.

I've seen business tax payments put into personal estimated tax accounts and vice versa. If the taxpayer pays electronically these issues are usually avoidable.

Here are a few mistakes that appear specifically on form IT-203. Taxpayers usually use the same filing status that they used on their federal return. There are a few very rare exceptions and these are covered in the IT-203 instructions.

For instance, some taxpayers filing married filing joint on their federal return can still file married filing separately on their New York State return if one taxpayer must file an IT-201 and the other an IT-203. For some married filing joint taxpayers who live out of state and only one spouse makes New York State source income, this is when they should use form IT-203-C. This keeps the non-New York State spouse from being a New York State taxpayer and indemnifies them against any compliance action by New York State. However there is one aspect that needs to be mentioned and that is the primary taxpayer on the New York State return and the IT-203-C should be the taxpayer with the New York State income or the return will require manual review.

Amended returns tend to have problems, usually with attachments and taxpayer’s signatures. An amended return must be filed in full including all the credit forms and schedules. If the credit form on an amended return is missing, the credit will be denied as we do not retrieve the credit forms from the original returns.

You may want to educate your client about this.

All federal changes to a New York return must be reported to New York State within 90 days. The Federal notice advising the taxpayer of a federal change is commonly form CP-2000. This usually means that an amended return must be filed with New York. We will ultimately be notified by the IRS of any change but by then additional penalty and interest will accrue on any balance due.

That concludes our discussion of Common Mistakes. Thank you very much and have a great day.