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# MEMORANDUM* OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT (NOVEMBER 18, 2021)

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MARK ANTHONY BLOMMER,

*Petitioner-Appellant,*

v.

COMMISSIONER OF INTERNAL REVENUE,

*Respondent-Appellee.*

No. 20-73394

Tax Ct. No. 469-20

Appeal from a Decision of the
United States Tax Court

Submitted November 8, 2021**

Before: CANBY, TASHIMA, and MILLER,
Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Mark Anthony Blommer appeals pro se from the Tax Court's order dismissing for lack of jurisdiction his petition regarding his tax liabilities for the 2004-2006 and 2009-2012 tax years. We have jurisdiction under 26 U.S.C. § 7482(a)(1). We review de novo. *Gorospe v. Comm'r*, 451 F.3d 966, 968 (9th Cir. 2006). We affirm.

The Tax Court properly concluded that it lacked jurisdiction over Blommer's petition because the petition was untimely. *See Scar v. Comm'r*, 814 F.3d 1363, 1366 (9th Cir. 1987) (Tax Court may exercise its jurisdiction only when the IRS issues a notice of deficiency and the taxpayer files a timely notice for redetermination); *Wilson v. Comm'r*, 564 F.2d 1317, 1319 (9th Cir. 1977) (90-day period for petitioning the Tax Court commences on the date of mailing the notice of deficiency).

Blommer's motion for summary affirmance (Docket Entry No. 30) is denied.

AFFIRMED.

**ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT DENYING PETITION FOR REHEARING EN BANC (MARCH 4, 2022)**

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MARK ANTHONY BLOMMER,

*Petitioner-Appellant,*

v.

COMMISSIONER OF INTERNAL REVENUE,

*Respondent-Appellee.*

No. 20-73394

Tax Ct. No. 469-20

Before: CANBY, TASHIMA, and MILLER, Circuit Judges.

The panel has voted to deny the petition for panel rehearing.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See* Fed. R. Civ. P. 35.

Blommer's petition for panel rehearing and petition for rehearing en banc (Docket Entry No. 33) are denied.

No further filings will be entertained in this closed case.

/s/ Molly C. Dwyer
Clerk

**ORDER OF THE UNITED STATES TAX COURT DENYING PETITIONER'S MOTION TO VACATE (AUGUST 26, 2020)**

UNITED STATES TAX COURT

MARK ANTHONY BLOMMER,

*Petitioner,*

v.

COMMISSIONER OF INTERNAL REVENUE,

*Respondent.*

Docket No. 469-20

Before: Maurice B. FOLEY, Chief Judge.

Petitioner's Motion to Vacate Denied.

/s/ Maurice B. Foley
Chief Judge

Served Aug 26 2020

**ORDER OF THE UNITED STATES TAX COURT OF DISMISSAL FOR LACK OF JURISDICTION (JULY 31, 2020)**

UNITED STATES TAX COURT
WASHINGTON, DC 20217

MARK ANTHONY BLOMMER,

*Petitioner,*

v.

COMMISSIONER OF INTERNAL REVENUE,

*Respondent.*

Docket No. 469-20

Before: Maurice B. FOLEY, Chief Judge.

On March 10, 2020, respondent filed a Motion To Dismiss for Lack of Jurisdiction on the grounds that: (1) pursuant to the doctrine of collateral estoppel, petitioner is precluded from relitigating the issue of the Court's jurisdiction; (2) the petition was not timely filed within the time prescribed by Internal Revenue Code section 6213(a) or 7502; and (3) respondent has not made any other determination raised by petitioner that would confer jurisdiction on the Court as of the date the petition was filed. In the motion respondent explains that petitioner filed a petition with this Court on June 24, 2019, at Docket No. 10900-19, alleging

that he never received notices of deficiency or notices of determination concerning collection actions for taxable years 2000 through 2018. By Order of Dismissal for Lack of Jurisdiction entered November 15, 2019, the Court granted respondent's motion to dismiss for lack of jurisdiction. Specifically, with regard to taxable years 2004 through 2006 and 2009 through 2012, the years at issue in the present case, the Order of Dismissal entered November 15, 2019, dismissed those years on the ground that the petition was not filed within the time prescribed by section 6213(a) or 7502.

On July 10, 2020, petitioner filed an Objection to the motion to dismiss. Therein, petitioner did not deny the jurisdictional allegations set forth in respondent's motion.

Upon due consideration, taking into account the statements contained in the Petition and the Objection, and for the reasons set forth in respondent's motion, it is

ORDERED that respondent's Motion To Dismiss for Lack of Jurisdiction is granted, and this case is dismissed for lack of jurisdiction with respect to each year placed in issue in the petition upon the grounds stated in respondent's motion.

/s/ Maurice B. Foley
Chief Judge

Entered: July 31, 2020

**ORDER OF THE**
**UNITED STATES TAX COURT**
**(MARCH 11, 2020)**

UNITED STATES TAX COURT
WASHINGTON, DC 20217

MARK ANTHONY BLOMMER,

*Petitioner(s),*

v.

COMMISSIONER OF INTERNAL REVENUE,

*Respondent.*

Docket No. 469-20

Before: Maurice B. FOLEY, Chief Judge.

Upon due consideration of respondent's Motion To Dismiss for Lack of Jurisdiction, filed March 10, 2020, it is

ORDERED that, on or before April 1, 2020, petitioner shall file an Objection, if any, to the above-described motion to dismiss. Failure to comply with this Order may result in the granting of the motion to dismiss.

/s/ Maurice B. Foley
Chief Judge

Dated: Washington, D.C.
March 11, 2020

**ORDER OF THE**
**UNITED STATES TAX COURT**
**(MARCH 11, 2020)**

UNITED STATES TAX COURT
WASHINGTON, DC 20217

MARK ANTHONY BLOMMER,

*Petitioner(s),*

v.

COMMISSIONER OF INTERNAL REVENUE,

*Respondent.*

Docket No. 469-20

Before: Maurice B. FOLEY, Chief Judge.

Upon due consideration of respondent's Motion To Dismiss for Lack of Jurisdiction, filed March 10, 2020, it is

ORDERED that, on or before April 1, 2020, petitioner shall file an Objection, if any, to the above-described motion to dismiss. Failure to comply with this Order may result in the granting of the motion to dismiss.

/s/ Maurice B. Foley
Chief Judge

Dated: Washington, D.C.
March 11, 2020

**ORDER OF THE UNITED STATES TAX COURT DENYING PETITIONER'S MOTION TO VACATE (DECEMBER 12, 2019)**

UNITED STATES TAX COURT

MARK ANTHONY BLOMMER,

*Petitioner,*

v.

COMMISSIONER OF INTERNAL REVENUE,

*Respondent.*

Docket No. 10900-19

Before: Maurice B. FOLEY, Chief Judge.

Petitioner's Motion to Vacate Denied.

/s/ Maurice B. Foley
Chief Judge

Served Dec 12 2019

**ORDER OF THE**
**UNITED STATES TAX COURT**
**(OCTOBER 22, 2019)**

UNITED STATES TAX COURT
WASHINGTON, DC 20217

MARK ANTHONY BLOMMER,

*Petitioner,*

v.

COMMISSIONER OF INTERNAL REVENUE,

*Respondent.*

Docket No. 10900-19

Before: Maurice B. FOLEY, Chief Judge.

Upon due consideration of the Motion to Dismiss for Lack of Jurisdiction, filed October 18, 2019, by respondent in the above-docketed case, it is

ORDERED that, on or before November 13, 2019, petitioner shall file an objection, if any, to respondent's just-referenced motion. Failure to comply with this Order may result in the granting of respondent's motion and dismissal of the instant case or other appropriate action by this Court.

/s/ Maurice B. Foley
Chief Judge

Dated: Washington, D.C.
October 22, 2019

## STATUTORY PROVISIONS INVOLVED

**Disclosure, Privacy Act, and Paperwork Reduction Act Notice**
**Page 101 of the 2012 1040 instruction manual**

The IRS Restructuring and Reform Act of 1998, the Privacy Act of 1974, and the Paperwork Reduction Act of 1980 require that when we ask you for information we must first tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if we do not receive it and whether your response is voluntary, required to obtain a benefit, or mandatory under the law.

This notice applies to all papers you file with us, including this tax return. It also applies to any questions we need to ask you so we can complete, correct, or process your return; figure your tax; and collect tax, interest, or penalties.

Our legal right to ask for information is Internal Revenue Code sections 6001, 6011, and 6012(a), and their regulations. They say that you must file a return or statement with us for any tax you are liable for. Your response is mandatory under these sections. Code section 6109 re-quires you to provide your identifying number on the return. This is so we know who you are and can process your return and other papers. You must fill in all parts of the tax form that apply to you. But you do not have to check the boxes for the Presidential Election Campaign Fund or for the third-party

designee. You also do not have to provide your daytime phone number.

You are not required to provide the in-formation requested on a form that is subject to the Paper-work Reduction Act un-less the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.

We ask for tax return information to carry out the tax laws of the United States. We need it to figure and collect the right amount of tax.

If you do not file a return, do not pro-vide the information we ask for, or provide fraudulent information, you may be charged penalties and be subject to criminal prosecution. We may also have to disallow the exemptions, exclusions, credits, deductions, or adjustments shown on the tax return. This could make the tax higher or delay any refund. Interest may also be charged.

Generally, tax returns and return information are confidential, as stated in Code section 6103. However, Code section 6103 allows or requires the Internal Revenue Service to disclose or give the information shown on your tax return to others as described in the Code. For example, we may disclose your tax information to the Depart-ment of Justice to enforce the tax laws, both civil and criminal, and to cities, states, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws. We may disclose your tax information to the Department of Treasury

and contractors for tax administration purposes; and to other per-sons as necessary to obtain information needed to determine the amount of or to collect the tax you owe. We may disclose your tax information to the Comptroller General of the United States to permit the Comptroller General to review the Internal Revenue Service. We may disclose your tax information to committees of Congress; federal, state, and local child support agencies; and to other federal agencies for the purposes of determining entitlement for benefits or the eligibility for and the repayment of loans. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

Please keep this notice with your records. It may help you if we ask you for other information. If you have questions about the rules for filing and giving information, please call or visit any Internal Revenue Service office.

**26 U.S.C. § 6011**
**General requirement of return, statement, or list**

(a) General rule

When required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title, or with respect to the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary. Every person required to make a return or statement shall include therein the information required by such forms or regulations.

**26 U.S.C. § 6020**
**Returns prepared for or executed by Secretary**

(a) Preparation of return by Secretary

If any person shall fail to make a return required by this title or by regulations prescribed there under, but shall consent to disclose all information necessary for the preparation thereof, then, and in that case, the Secretary may prepare such return, which, being signed by such person, may be received by the Secretary as the return of such person.

(b) Execution of return by Secretary

(1) Authority of Secretary to execute return

If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

(2) Status of returns

Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes.

**I.R.M. 5.1.11.7.7 (04-23-2014) IRC 6020(b) Authority**

1. The following returns may be prepared, signed and executed by revenue officers under the authority of IRC 6020(b):

   A. Form 940, Employer's Annual Federal Unemployment Tax Return

B. Form 941, Employer's Quarterly Federal Tax Return

C. Form 943, Employer's Annual Tax Return for Agricultural Employees

D. Form 944, Employer's Annual Federal Tax Return

E. Form 720, Quarterly Federal Excise Tax Return

F. Form 2290, Heavy Highway Vehicle Use Tax Return

G. Form CT-1, Employer's Annual Railroad Retirement Tax Return

H. Form 1065, U.S. Return of Partnership Income

2. Per Delegation Order 5–2 (Rev 2), effective October 21, 2013, GS-09 Revenue Officers, GS-09 Bankruptcy Specialists, and GS-11 Bankruptcy Advisors have the authority to prepare, sign and execute returns under IRC 6020(b). https://www.irs.gov/irm/part5/irm_05-001-011r#idm139907207695008

**26 U.S.C. § 6065**
**Verification of returns**

Except as otherwise provided by the Secretary, any return, declaration, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury.

**MONEY MAGAZINE ARTICLE**
**(MARCH 1, 1988)**

# Money

## Even Seasoned Pros Are Confused This Year
## MONEY asked 50 tax preparers to figure one family's taxes–and got 50 different answers.

By Greg Anrig Jr

(MONEY Magazine) – Chances are that if you've mustered the courage to look at this year's "simplified" 1040 tax packet, you are probably ready to seek professional help—either from a tax preparer or a mental-health therapist. The tax reform law has added new complexity to the old forms while creating another whole set of befuddling worksheets for you to complete. So if you have any itemized deductions at all, you should probably see a tax practitioner.

But beware: the pros are plenty baffled themselves. A MONEY examination of 50 tax preparers nationwide shows that the new tax law is causing all sorts of problems for those who make their living filling out tax returns. What's more, an easier test we conducted reveals that the IRS' own taxpayer assistors are alarmingly ignorant about the revised tax code (*see* the box on page 136).

In January, MONEY mailed the financial profile of a hypothetical family to the participants in our project, who agreed to prepare the family's tax returns based on the information sent. (They were also encouraged to call us if they needed additional information.) Formulated with the help of S. Theodore Reiner, senior

manager with the Washington, D.C. office of Ernst & Whinney, the profile raised complex tax issues relating to the new law, but included no unfair trick questions. Here are the most striking results of our survey:

—The 50 pros computed 50 different amounts of tax due from the family. Their bottom lines varied by as much as 50%.

—The preparers are still uncertain about the nuances of the new tax law.

—In cases where the law itself is unclear, the pros are making up rules of their own that differ greatly. Because there are an unprecedented number of gray areas, it's more likely than ever that you could end up paying a higher tax bill—or risking an audit—with some practitioners than with others.

—Pro tax preparers, even the most expensive ones, are not immune from making careless mathematical mistakes.

—H&R Block outlets are capable of handling a difficult return as skillfully as some Big Eight firms—at a fraction of the cost. While the Block preparers would have charged an average of only $267 to our hypothetical family, the national accounting firm's fees averaged $1,567. Originally, we sent our hypothetical case to 60 practitioners. Fifteen were chosen from each of four categories: certified public accountants with national offices, who charge anywhere from $50 to $250 an hour; C.P.A.s with local or regional firms, who on average charge slightly lower rates; enrolled agents—independents who have either worked for the IRS as revenue agents for at least five years or passed a two-day IRS test—who charge between $50 and $150 an hour; and H&R Block preparers, who charge $8 to $24

per tax form—which works out to $50 for a typical return.

Nationwide, there are about 375,000 C.P.A.s, 40,000 H&R Block preparers and 24,000 enrolled agents. Of the 96.1 million personal tax returns filed in the U.S. for 1986, about 44.1 million—or 46%—were filled out by professional preparers. Fifty of the 60 practitioners who agreed to take MONEY's test sent back completed 1040 forms to us within two weeks as promised. Seven C.P.A.s with national firms and three H&R Block preparers backed out, in most cases claiming that they didn't have enough time. Because the law is imprecise about several matters pertaining to the hypothetical case, there was no right or wrong bottom-line answer. (No withholding was assumed, for simplicity's sake.)

Ernst & Whinney's Reiner, who helped us develop the hypothetical case, anticipated that the typical response would be around $9,000. He was right on the money: the actual average turned out to be $9,105. But the final tax due that the preparers came up with spanned an enormous range, from a low of $7,202 all the way up to $11,881. Of the 50 participants, 16 computed a tax that differed from the $9,105 average by more than $500. (Each participant's fee and bottom line is listed in the table on page 135.) The factor most responsible for the wide variation in the responses was the new, more complicated version of the alternative minimum tax, which will affect more taxpayers than in previous years but still less than 1% of all personal returns.

The AMT, as it's called, is a tax computed separately from the 1040 form that prevents taxpayers with sizable deductions from paying very little to the

government. Many, but not all, of the preparers who came up with a low tax due simply miscalculated the AMT by omitting an important figure. Five of the preparers who computed an unusually high tax bill did so because they assumed—quite reasonably—that a technical corrections bill containing an important AMT change will soon become law retroactive to 1987. Because their fees are relatively high, the five could save their clients as much as $700 by eliminating the need for an amended return after the bill passes.

In the meantime, however, the hypothetical family would owe a tax that is $1,596 higher than it would be under the law as it now stands. The lesson: if your preparer tells you that you are subject to the AMT, make sure he spells out the costs and benefits of figuring your return under both the current and the corrected rules.

In addition to the AMT, there were three other important reasons for variations in tax calculations. First, some preparers were unfamiliar with the tax code's finer points. A problem in the hypothetical case involving an excess contribution to a 401(k) retirement plan, for example, stumped six participants.

In addition, almost half of the practitioners were unfamiliar with new provisions enacted last December concerning mutual fund expenses and master limited partnership income. The errors in such instances involved small dollar amounts, though similar mistakes on your return could conceivably cost you a lot of money. We did not count as errors cases in which participants made assumptions on their own that justified a different answer. These independent assumptions caused some minor variations in the bottom lines. Mathematical mistakes or blatant oversights

were the second main reason for differing tax calculations. Thirteen of our participants—five local C.P.A.s, three enrolled agents, three Block preparers and two C.P.A.s with national firms—made errors that could be characterized as blunders.

The lesson: always review each line of your completed return with your preparer. If he seems vague or uncertain about a particular item, have him show you the pertinent tax code provision or regulation. Remember, if you are ever audited, you—not your tax preparer—will be the one subject to back taxes, interest and penalties.

The final major cause for differing bottom lines is the gaps in the tax law itself. For some situations, there are no clear rules. In our hypothetical cases, the preparers had to cope with such ambiguities to determine the family's interest and miscellaneous deductions. Aggressive preparers tried to save as much tax for the family as they could justify. But in so doing, they increased the risk that the IRS would audit the family's return. Conservative preparers were more inclined to let the family pay higher taxes. Our participants were split fairly evenly between these two philosophies. C.P.A.s with national or local firms tended to be either very aggressive or very conservative. The enrolled agents and H&R Block preparers were apt to be middle of the road. Not surprisingly, the C.P.A.s, who by and large serve wealthy individuals and corporate clients, charged fees that far exceeded those of the other preparers. The average bill was $1,567 for those at national accounting firms and $966 for the local C.P.A.s. In contrast, enrolled agents and H&R Block preparers, who cater to taxpayers of modest

means, charged an average of $582 and $266, respectively. The average tax bill that they calculated for the family was slightly lower than the amount that the C.P.A.s computed: $9,076 for the enrolled agents and $9,027 for the H&R Block preparers, compared with $9,086 for the national C.P.A.s and $9,205 for the local ones. One reason for their high fees is that C.P.A. firms generally offer much more sophisticated year-round tax-planning services. In fact, many C.P.A.s who participated sent along tax-planning tips for the hypothetical family with their tax returns, even though we didn't ask for any. In some cases, their ideas would have saved the family more than the $2,500 that the most expensive C.P.A. charged. No enrolled agent or Block preparer included planning points.

The performance of the relatively inexpensive H&R Block preparers was quite good. Considering that the hypothetical family's finances were far more complex than those of the typical Block client, the chain provided excellent value. Many of the Block participants consulted the firm's eight-person troubleshooting team in the firm's home office in Kansas City to ask about particular changes in the law, a step that preparers in branch offices often take if a client has a complicated problem. A group of five enrolled agents came up with bottom lines that were within $9 of one other, an aberration considering how widely the other responses varied. Patricia Burton of Gales Ferry, Conn., one of the five, explains that she and several of the others discussed some of the more challenging aspects of the case.

A former president of the 6,000-member National Association of Enrolled Agents, Burton says she frequently consults with other enrolled agents about her

client's tax problems. Because there are relatively few enrolled agents, the group tends to be more closely knit than other professional preparers, she says. Some of the most interesting results of our test pertain to the specifics of our hypothetical case. The profile we sent describes the Johnsons, a couple earning a combined salary of $100,000 with three children, each of whom earned enough in 1987 to be subject to tax. The family's investments included stocks, corporate and municipal bonds, mutual funds, limited partnerships and U.S. Savings Bonds and Treasury bills. The Johnsons moved during the year and kept a second home, which they rented out part of the time. To complicate things further, they also took out a second mortgage on the second home.

After reviewing the returns, Ernst & Whinney's Reiner said that aside from the AMT, the area that posed the biggest problem was the mortgage interest deduction on the second home. Says he: "Calculating the AMT and the interest deductions was brutal." Here, from the top of the tax return to the bottom, is a summary of how the preparers computed the Johnson family's taxes:

SALARIES, INTEREST AND DIVIDENDS Aside from a couple of mathematical errors, the practitioners generally had little trouble with this section. One exception: six preparers failed to report as taxable interest $125 that was earned on an excess 401(k) contribution the wife made. Several others also didn't count the money but made assumptions on their own that justified the omission.

CAPITAL GAINS On this line, 20 practitioners incorrectly counted $400 in mutual fund fees as taxable income. They would have been correct before

December, but since then Congress has passed a bill saying that such so-called phantom income should not be counted as income in 1987.

LOSSES FROM LIMITED PARTNERSHIPS Another 21 of our participants, some of whom knew about the mutual fund fee change, missed a different provision in the December tax bill. They were not aware that tax-shelter losses cannot be used to offset fully income from a master limited partnership, a type of partnership that is publicly traded like a stock—a fact that some of our practitioners didn't know.

STATE AND LOCAL TAXES Here, only a couple of preparers made an error. Nevertheless, the responses differed. Forty-four of our participants aggressively followed a 1983 appellate court ruling to determine the deduction while six adhered to more conservative IRS rules. The issue concerned the amount of property-tax expense on the family's second home that could be deducted on Schedule A, their itemized deduction form. The IRS and the court disagree about the proper way of allocating expenses between personal and rental use when a second home is rented out part of the time. Using the court ruling formula added $150 to the Johnsons' personal property tax write-off compared with the IRS approach.

INTEREST DEDUCTIONS For this write-off we received 49 different answers. The preparers essentially had no guidelines because the IRS hasn't yet written final regulations explaining how to deduct interest on a second mortgage on a second home that is leased out part of the year. Because the second mortgage was used for personal expenses and exceeded the original cost of the property, not all the mortgage interest was deductible. The most aggressive of our participants

ended up writing off a total $21,022 in interest, while the most conservative deducted only $17,320. Most of the responses ranged between $18,100 and $18,900.

MISCELLANEOUS DEDUCTIONS Here, 38 preparers deducted a conservative amount while 12 were more aggressive. The controversy related to a four-year subscription to a trade publication that cost $200. Following IRS regulations, the conservative practitioners deducted only one-fourth of the $200. The others wrote off the full amount, explaining that there's no law actually prohibiting the $200 write-off. In an audit, the extra $150 would most likely be disallowed, which would leave it up to the Johnsons and their preparer to decide whether to take their case to tax court. Considering the small amount, they would probably just pay up. The results of our project are anything but reassuring. They provide a graphic warning to all taxpayers during this filing season: don't sign your return until you have carefully scrutinized every line. That's true whether you filled out the forms yourself or hired the most expensive accountant in town. But don't hesitate to hire someone to do the job for you. Despite the problems they had with our hypothetical case, the majority of the pros proved that they can save taxpayers a lot of anguish, and maybe even a fair amount of money.

BOX: Testing the IRS

SO HOW COME THE IRS KNOWS ALL THE ANSWERS WHEN YOU GET AUDITED?

When the General Accounting Office examined the IRS telephone assistance program a year ago, it found that the agency answered only 79% of the GAO's questions correctly. The IRS vowed to do better this

year and has launched a major public relations campaign promising to "put the service back in The Service." It's a nice thought. But a MONEY survey conducted this past January—using easier questions than those we asked of the tax practitioners—suggests that the IRS "helpers" have gotten worse.

In fact, the assistors were right only slightly more than half the time. Forty percent of those we queried, for example, didn't even know that the IRS itself, with great public fanfare, had waived the penalty on tax underpayments for workers who had too little withheld from their paychecks last year. Maybe the IRS should call H&R Block.

MONEY placed a total of 100 calls to IRS assistors. Each helper was asked one of 10 questions, prepared with the help of Ernst & Whinney, and each question was posed to 10 different assistors. The results were appalling. Overall, only 55 responses were correct and 45 were inaccurate. In four cases, the assistors said that additional research was needed and that a written response would be sent within eight working days.

Did research help? No way. All four written answers were wrong. Spokesperson Johnelle Hunter defends the IRS by saying that MONEY's questions were "not typical." Larry Endy, the director of the GAO's study, says the IRS made the same claim last year. Says he: "We asked questions that we thought the IRS people should be able to answer whether they received them 10 times or a million times." So did MONEY. The assistors were most knowledgeable about the new kiddie tax (MONEY, February 1988) and the reduction in basic deductions for such expenses as union dues. All the representatives we asked knew that a 13-year-old child with $100 in bank interest

and $700 in paper route income must file a 1987 tax return. And nine of 10 correctly responded that miscellaneous deductions, including union dues, can be written off only to the extent that their total exceeds 2% of adjusted gross income. But 60% were not aware that the cost of sending a child to an overnight summer camp can be counted toward the child-care credit in 1987. Also, seven of 10 didn't know that interest paid on a loan used to buy tax-exempt bonds is not deductible.

In the wake of last year's GAO report, the IRS hired 1,000 more assistors, bringing the total to 4,500. The service also expanded its training sessions for telephone representatives and required its supervisors to monitor more phone calls. In addition, to solve last year's problem of constant busy signals, the number of phone lines has been expanded by 30%. Unfortunately, despite those efforts, IRS helpers remain woefully ill-informed about the new tax law. G.A. Jr.

CHART: TEXT NOT AVAILABLE CREDIT: NO CREDIT CAPTION: More than ever, the tax preparer makes all the difference The 50 tax practitioners—of four types—who completed returns for our hypothetical family came up with different tax totals—and fees. The average tax (black line) was $9,105, but the returns ranged from $7,202 to $11,881. The average fee was $779, but it varied from $187 to $2,500. DESCRIPTION: *See* above.

SUPREME COURT
PRESS