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## MATRIMONIAL

## NEWSLETTER

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## HOW DO I GET COPIES OF OLD TAX RETURNS?

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Access to financial records is always challenging in matrimonial actions. So what is the best way to obtain copies of prior year tax returns?

First, if the tax return was prepared by a paid preparer, ask them for a copy. By law, paid preparers are required to retain copies of tax returns and all supporting records for 3 years after the due date of the return, or 3 years after the return was presented for signature. Some firms may have internal policies to retain tax returns for a longer period than required by law, perhaps as long as 7 or 10 years. So, try there first, it will probably be faster and cheaper.

If the returns were electronically filed, the same rules apply. If you cannot locate the preparer, the IRS web site has an "Electronic Return Originator" data base that can be searched by zip code to find the firm contact information.

If the preparer cannot supply the requested returns, taxpayers can ask for a copy of their prior year tax return directly from the IRS. The IRS must maintain copies of prior year returns for a period of 7 years from the filing date before they are destroyed.

**Form 4506-Request for a Copy of Tax Return** is used to request the return copies. Please note that there is a **\$57 fee for each return** requested. Also, you may need to file multiple requests if your client is requesting more than one type of return (i.e.: individual, partnership or corporate tax returns), or they lived in another state during the marriage. The form must be submitted to the IRS Service Center, as indicated on the form instructions, where the original tax return was filed, not necessarily where they are living today. The return copies can also be certified for court or administrative proceedings by checking the box in Line 6.

If the return was jointly filed, either spouse may individually request copies. Business, partnership and other returns can be requested by a corporate officer, partner or other authorized individuals. Remember, you can also have you client give you a completed power of attorney Form 2848 to authorize you to request the return copies on behalf of your client.

**Reminder:** It can take up to 60 days to receive the copies from IRS, so be patient.



In many cases, a transcript will provide the information you may need more quickly. Transcripts provide taxpayers with a computer-created record of their tax return which includes most of the line-items as filed with the IRS, including any accompanying forms and schedules.

**Form 4506-T Request for Transcript of Tax Return** is used to request transcripts. You can receive transcript information for the current year and for the 3 prior tax years. In some cases the IRS may be able to supply information for up to 10 years. Requests are generally processed in 10 days. There is no charge for transcript requests.

Tax return transcripts are available for 1040 Individual returns, 1065 Partnership returns, 1120 and 1120s returns for the years 2005 through 2008.

If there is an issue with non-filed returns, Form 4506-T can be used to request data from various information returns such as Form W-2, 1099 series, 1098 series, or 5498 series. Note that these transcripts are available from 2002 through 2007, but will not include any state or local information. This information can be used to prepare the unfiled returns in cases where the spouse may not have access to, or has lost this information.

**Reminder:** The form must be submitted to the IRS Service Center, as indicated on the instructions, where the original tax return was filed.

### **And don't forget about those State returns!**

For New York State, use **Form TR-152 – Request for Copy of Filed Tax Return** for copies of prior year filed returns. As with the IRS, it can take up to 60 days to receive the tax return copies. The fee is twenty-five cents (\$.25) per page. If you don't know the exact number of pages, sending an amount for a close estimate of costs is acceptable according to the form instructions. A typical jointly filed IT-201 Resident Income Tax Return may be 7-10 pages, including all schedules, business returns may as many as 20 pages long, so estimate accordingly.

New York State currently retains tax returns for seven years from filing before they are destroyed. Tax return copies are generally available from 2001. If older information is required, the state can supply a detailed line-by-line transcript for returns filed between 1990 and 2000. Older tax information is available from 1973 through 1989, but is limited to a printout of tax form information, filing date, basic income and tax information.

**Reminder:** If the return was jointly filed, either spouse may individually request copies, you do not need both signatures. 