

Getting Caught Filing and Claiming Head of Household Fraudulently Can and Will You Get Audited by the IRS

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Shuck72 has over 17 years of experience working in the child support industry and working with clients on tax issues.



One of the most misunderstood tax filing status' is *Head of Household*. In order to claim Head of Household per IRS Publication 501 you must be:

- 1. Unmarried.**
- 2. Have paid for over half the cost of keeping up your home for a year (rent, utilities etc.) for yourself and your dependent.**
- 3. A qualifying dependent lived with you for more than 6 months of the tax year you are filing for.**

What does this really mean?

The intent of this filing status, primarily, is for single parents. This means an unmarried parent, living with their child or children and being the primary support for them.

It does not mean a father who pays child support and gets to claim the child on taxes as a dependent.

The difference between filing single and head of household can be the difference between owing taxes and getting a rather large refund. For this reason it is one of the areas many filers are tempted to cheat and many do so.

To illustrate:

A person making \$50,000 a year who files single and is allowed to claim 1 child as a dependent would receive approximately a \$700 refund.

If the same person files the head of household status instead of single the \$700 refund jumps up to \$1400.

You can see why many filers are tempted when all they have to do is check a different box on their return and double their money.

In 2007 California audited 150,000 state returns where people had claimed head of household. It was found that 20% of those claiming head of household did not have the right to do so.

The Head of Household filing status is designed specifically to help reduce poverty. It is a boon to those that truly qualify for it and is good for the country. But it is also ripe for abuse by filers claiming it when they don't truly qualify.

Where Filers Make Mistakes

Many filers claim head of household when they are not entitled to. For instance, a father who is divorced and pays child support may think he can claim head of household because the divorce decree says he is allowed to claim the child on the tax return every other year. This entitles him to claim the deduction and tax credit but does NOT allow him to claim the head of household status as the child lived primarily with the mother.

In fact the mother can allow the father to claim the child as a dependent and still herself claim head of household for the same child as the child lived primarily with her.

While many simply do not understand the rules, many do know they shouldn't claim head of household but file under that status anyway. If someone claims head of household when they understand they are not entitled to, it is tax fraud pure and simple.

Will You Get Caught?

The IRS in a typical year audits less than 1% of IRS tax returns so the likelihood is low that you will get caught if you file head of household when you should not.

However, if both parents file head of household the IRS will certainly contact both filers to find out who has the right to claim the exemption. One of the filers will need to amend their return.



What Happens If I Do Get Caught?

You will have to pay back the correct amount and in addition will be charged penalties and interest.

In the case I referenced earlier regarding California State Income Taxes they assessed \$35 million in taxes against the 30,000 filers who claimed head of household erroneously.

This works out to be \$1166 that had to be paid back on average per filer that was caught. This was the State of California though, the Internal Revenue Service plays much rougher.

Let's take a look at someone who filed Head of Household fraudulently and is caught. By claiming Head of Household fraudulently they received an extra \$1,000 on their tax refund.

Obviously the IRS wants their \$1,000 back. In addition they are going to attach a 75% penalty. This brings the total due to \$1,750.

They also are going to want interest which is 0.5% per month. Let's say it takes them a year before they catch you; that is another \$100 in interest you owe them.

That brings the grand total you are going to have to pay back to the IRS to **\$1,855**. This is assuming you can pay it back immediately, if not the interest keeps accruing.

But wait, there's more. If the IRS catches you filing Head of Household fraudulently they will not allow you to claim it again for ten years even if you are entitled to it down the road. It's called a dis-allowance penalty.

Finally, the IRS also has the right to fine you up to \$250,000 for fraud and if they really want to press the issue they have the right to imprison you up to 5 years.

No Harm, No Foul

It can be tempting, especially in difficult economic times to try to cheat on your taxes. Claiming head of household on the surface looks like one of those crimes without a victim. But if you get caught you will likely feel like a victim after the IRS is done with you.

The IRS knows the public realizes they are outnumbered and can't scrutinize each taxpayer. It's for that very reason that there is a certain element of fear built into their tactics. Realistically there is little likelihood you will end up in their snare but you will be in a world of hurt if you do.

The penalties are severe when they catch you cheating. Part of the reason the penalties are so stiff is to serve as a deterrent to other would be cheats. They want Joe Taxpayer to think twice before deciding to cheat.

What Would Your Defense Be?

Imagine filing head of household when you shouldn't have. You get your \$1400 refund no problem. Then a month or two later you get a letter from the IRS saying you are being audited.

How are you going to prove your child lived with you for six months or more of the last year? They are not going to take your word for it. They will want to see school records, lease agreements, doctor's bills etc. You will not be able to convince them nor have documentation you need to fool them.

You will also have to sign this when you file your return:

Perjury Statement

Under penalty of perjury, I declare that I have examined this return, including any accompanying statements and schedules and, to the best of my knowledge and belief, it is true, correct, and complete.

You will be at their mercy. You know you lied and they know you lied. Not a position you want to be in when it comes to the IRS.

It's Just Not Worth It

If you willingly claim head of household when you shouldn't have you are looking at getting away with \$500-\$1200 dollars tops depending on your tax bracket. Not much money in the bigger scheme of things. It's not worth it. Wondering if you're going to get caught. The humiliation if you do.

Plus if you get away with it one year you'll likely do it every year. Worst-case scenario you do it for three or so years then get caught. Guess what? The IRS is going to go back and look at your returns, not only for the most recent year but also for years past. A \$1000 problem becomes a \$3000 problem real fast. With penalties and interest you can't even do the math.

And a debt to the IRS can't be written off in a bankruptcy. If they take you to the mat you can be down for years trying to dig out.

It's just not worth it.

