

# Introduction



Planning for the upcoming tax season is an important step in managing the professional liability risk associated with providing tax services. The following checklists provide many suggestions firms should consider in planning for this work.

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Monday through Friday, 8:30 a.m. to 6 p.m. ET,  
to speak with an AICPA Risk Advisor.  
Or visit [cpai.com](https://cpai.com) to review our insurance portfolio and risk mitigation resources.

# What to do now... before the big rush

Busy season is, well, busy. Advance planning and preparation now, before things become too hectic, can help mitigate the risk of an error or omission during busy season.



# 7 ways to help clients prepare

Because clients don't live and breathe the tax law as CPAs do, they may expect you to inform them of planning opportunities and tax traps. With time at a premium, it's often difficult to do this during tax season. Take the time now to speak with clients.

- 1 Inform clients of significant tax law changes since last tax season.** These changes may include guidance related to the Coronavirus Response and Relief Supplemental Appropriations Act, Coronavirus Aid, Relief, and Economic Securities ("CARES") Act, Families First Coronavirus Response ("FFCRA") Act, American Rescue Plan Act, the Advanced Child Tax Credit, virtual currency, and the third round of Economic Impact Payments ("EIPs"). Retain a distribution list of such communications (e.g., newsletters), including

the dates transmitted, and document that the client was informed of these changes.

- 2 Identify clients who have made investments in aggressive tax planning strategies.** Include those identified on the IRS Dirty Dozen list, such as syndicated conservation easements and micro-captive insurance companies. Be alert for strategies not yet identified by the IRS. For ideas on what to look for, read the article [Avoiding Fallout from Aggressive Tax Strategies](#). Document research performed and any related client discussions.
- 3 Alert clients of other filing obligations,** such as Financial Crimes Enforcement Network (“FinCEN”) Form 114, Report of Foreign Bank and Financial Accounts (“FBAR”) and the consequences of non-compliance.
- 4 Consider the impact of remote employees and the South Dakota v. Wayfair, Inc. (“Wayfair”) decision on clients’ businesses.** COVID-19 has changed where many people work, potentially creating nexus in new states for clients’ businesses. [Risk Alert: “COVID Homes” Create Professional Liability Risk for CPA Firms](#) provides guidance.

Have all clients considered the Wayfair decision? If not, consider leveraging

the AICPA's [Wayfair Client Notification Letter](#) to start the discussion. If you believe the decision may affect your clients, schedule a meeting to discuss the impact and follow up in writing to document the discussion.

**5 Contact clients to schedule appointments prior to year-end.** Discuss items affecting their 2021 return. If a tax projection will be prepared or tax consulting will be performed, obtain a separate signed engagement letter for these additional services. Sample tax planning and tax consulting engagement letters are available to CNA policyholders in the [Policyholder Resource Center](#) and AICPA Tax Section members in the [Annual Tax Compliance Kit](#). Be specific about the scope of services. For example, “calculate the impact of Internal Revenue Code §163(j) on the company in light of Tax Reform, and, if interest is limited, explore options to increase the deduction” is preferable to stating “explore Tax Reform’s impact on the company.”

**6 Contact clients who have historically procrastinated in providing their tax return information to you.** Consider providing incentives to them for early submission. Ideas on how to incentivize clients can be found in the articles [How to Deal with Last-Minute Clients](#) and [The Early CPA Gets the Return \(Done on Time\)](#). Provide these clients with a deadline by which all information must be received. If information is not received by the

designated date, inform the client that you will be unable to timely complete the return, and an extension request may be necessary.

**7 Have your clients changed their partnership agreements for the Bipartisan Budget Act (BBA) of 2015 Centralized Audit Regime?** Partnership returns currently under audit are now subject to these rules. To learn more, review the [IRS BBA Centralized Partnership Audit Regime](#) resource.



# 4 steps to review e-file requirements and processes

The ability to file federal, state and local tax returns electronically is essential. Ensure that the firm's capabilities to do so are in place prior to the start of the filing season.

- 1 Research mandatory e-filing requirements for federal and state tax returns.** Preparers filing 11 or more U.S. individual or trust tax returns are required to e-file. Importantly, each state where a tax return is filed has its own e-filing rules, which must be separately researched.
- 2 Review the information currently on file with the IRS.** Is the firm authorized as an IRS e-file provider? If not, register as an e-file provider with the IRS. If information on file with the IRS has changed, update it or reapply as a new

e-file provider.

### **3 Train professional and administrative personnel on firm e-filing processes.**

Submit completed returns electronically only upon receipt of both the signed e-file authorization forms and documentation acknowledging the client's review and approval of draft returns. Signed Form 8879, IRS e-file Signature Authorization, and state equivalents must be received by the firm before tax returns are filed electronically, and Form 8878, IRS e-file Signature Authorization for Form 4868 or Form 2350, and state equivalents must be received before extensions are filed. Retain documentation acknowledging the client's approval and the e-file authorization form(s).

When filing electronically, save acknowledgments from the IRS or other tax authorities indicating return acceptance, not only receipt, for at least three years. Every year, claims are filed for returns submitted but not accepted by the IRS for e-filing. Reduce this likelihood by developing a system to identify returns not accepted by the IRS and establish follow-up procedures, including informing the client.

### **4 Inform clients that returns will be filed electronically.** Client engagement letters and cover letters sent with the tax organizer should include provisions advising that clients will be required to review and approve draft returns and

sign appropriate e-file authorization forms prior to tax returns or extensions being filed. If a joint income tax return is filed, both spouses must sign the engagement letter and the forms.



# 5 ways to update engagement letters

Engagement letters are one of the best tools in your risk management toolkit. Take the time to update your templates now.

- 1 Review prior year engagement letters and update, as needed.** Sample engagement letter resources include your professional liability insurer, the AICPA, and others. CNA's sample engagement letters are available to policyholders in the [Policyholder Resource Center](#). AICPA Tax Section members can access engagement letter templates in the Annual Tax Compliance Kit. If clients (or you) believe the sample engagement letter templates are too long, consider using a Terms and Conditions Addendum. The article, [Use Standard Terms to Build a Liability Shield](#), describes how an addendum can help accomplish this goal.

2 **Review firm policy on issuing engagement letters.** While obtaining signed engagement letters is always the preferred risk management practice, unilateral engagement letters sent with tax organizers may be more practical for low-risk individual tax return preparation engagements. A unilateral engagement letter requires signature only by the CPA firm. The client indicates its acceptance with the firm's terms and conditions by returning the organizer and providing other tax information to the CPA firm. A sample unilateral engagement letter is included in CNA's sample letters. [Which Engagement Letter Reigns Supreme?](#) includes a more detailed discussion of the benefits and drawbacks of using unilateral engagement letters.

3 **Emphasize use of engagement letters for all tax services.** These services include tax planning, tax consulting and tax audit representation. In 2020, approximately 44% of tax claims asserted against CPAs in the AICPA Professional Liability Insurance Program failed to utilize an engagement letter related to the service that was the subject of the claim. Although CPAs may be diligent about obtaining engagement letters for compliance services, experience demonstrates that they are less conscientious when providing higher risk tax services, such as audit representation, planning and consulting. A single engagement letter may not suffice for a client that engages the CPA firm for multiple services.

4 **Inform clients when the firm will begin preparing tax returns.** Advise clients that the firm will begin tax return preparation upon receipt of the retainer fee, if requested, and a signed engagement letter; or, if a unilateral engagement letter is sent, the completed and signed tax organizer is received.

5 **Questions on engagement letters?** Please read the article, Frequently Asked Engagement Letter Questions, which provides additional guidance.

# 3 must-dos related to client acceptance and continuance

What's another critical risk management tool? Selecting the right client. This section helps you identify clients that may become troublesome.

- 1 Review the firm's client list from the prior tax season.** Consider terminating the firm's professional relationship with unprofitable and "problem" clients, such as those who do not provide information in a timely manner, and those who are overly aggressive, as discussed in [Avoiding Fallout from Aggressive Tax Strategies](#). Consider the client's risk profile and whether it continues to be the right fit for the firm. The article, December article, identifies other factors to consider when deciding whether or not to continue a client relationship. If you remain unsure, read, [Take a Hike: Ending Client Relationships](#), for additional considerations. If the decision is made to terminate the client, [Client](#)



[Termination Letters](#) explains how to write a termination letter and provides sample content.



**2 Identify and address clients that may create a potential conflict of interest for the firm.** Review the firm's existing client list at least annually to determine if conflicts exist. Once identified, follow the guidance in [A Framework for Maintaining Ethics Compliance](#), to evaluate the potential conflict and determine if the threat to objectivity can be reduced to an acceptable level and services can be provided. If services can be rendered, review the articles, [Managing Conflicts of Interest](#) and Considerations to [Help Avoid Becoming a Casualty in the Divorce Wars](#).

Establish protocols to address potential conflicts that may arise after the annual review has been completed.

**3 Update the firm's client acceptance checklist and conduct due diligence on prospective clients.** Inquire why they are changing accountants. Does a potential conflict of interest exist with an existing client? Conduct an internet search on the prospect. Request the prospect's consent to contact the predecessor accountant. Consider obtaining a retainer fee from new clients as a condition of engagement. The article, [Client Acceptance: A liability gatekeeper](#), includes other criteria to consider in balancing the risks and rewards of accepting a prospective client.

# 7 steps to prepare the firm for tax season

Staffing, registration, organizers, and additional administrative tasks can be tackled early. Address these important steps now so time can be spent on client work during tax season.

- 1 Renew existing PTINs and register new tax return preparers with the IRS.** Any firm member who will prepare all or substantially all of a federal tax return must be registered, regardless of whether or not the member signs the return as the preparer.
- 2 Research state law regarding registration requirements for the firm and tax return preparers.** Registration and licensing requirements vary by state, and some states charge registration fees. Renew or register with the states having registration requirements.



**3 Update the firm's tax quality control and policies and procedures manuals.** If you do not have a tax quality control manual, consider creating one. [AICPA Tax Section members](#) and [CNA policyholders](#) have access to the AICPA Tax Practice Quality Control Guide to use as a resource.

**4 Review tax return volume from the prior season, anticipated changes for this season, and current staffing.** Make adjustments, as needed. Be alert to bottlenecks that may arise, such as too many staff and an insufficient number of reviewers. Explore using data scan software or software that retrieves data from third parties and automatically adds it to tax software. If individual tax return information will be sent offshore, remember to obtain IRC Section 7216 releases. The AICPA has samples available to members [here](#).

**5 Determine if additional staff will be required and initiate contact with subcontractors who can assist with tax season.** Perform due diligence before hiring subcontractors or temporary staff. For guidance regarding the criteria to evaluate, CPA firm oversight and client consent requirements, read the articles, Navigating Storms, and Risk, with Subcontractors and Due Diligence with CPA Firm Subcontractors. Consider applicable AICPA ethics interpretations and Treasury regulations. Consult with legal counsel, as

necessary, and execute an agreement regarding such issues as fees, hours, the subcontractor's obligation to protect confidential information and more.



**6 Review tax organizers to ensure that they fully address recent, complex areas of law, and reporting requirements.** Ask if the following are sufficiently addressed:

- Paycheck Protection Program (“PPP”) loan forgiveness, Economic Injury Disaster Loan (“EIDL”), Restaurant Revitalization Fund and Shuttered Venue Operators grants

- Employee Retention Credit (“ERC”),
- Filing obligations related to foreign activity, including the FBAR and the Foreign Account Tax Compliance Act (“FATCA”),
- [Virtual currency transactions](#), and
- The sharing economy, including income from home rentals, driving services, or other peer-to-peer services. If you are not conversant with the tax implications of the sharing economy, read [Short Term Rentals, The Sharing Economy and Tax](#).

If organizers fail to adequately address such issues, consider supplementing them with additional questions or specifically addressing them in documented discussions with clients.

**7 Evaluate the effect of hosting services on the firm’s independence with respect to attest clients.** The AICPA Professional Ethics Executive Committee issued an ethics interpretation, *Hosting Services*, ET 1.295.143 which became effective July 1, 2019. A firm’s independence may be impaired if it is a “host” of client data. The interpretation defines “hosting” to mean it is the sole source of information necessary for the client’s records to be complete. See the Risk Alert [Being a Good Host Can Cause Liability Concern – Impact of Ethics Interpretation, Hosting Services](#).



# 5 data security concerns

Data security is critical, especially because the IRS requires practitioners to implement a data security plan to renew their preparer tax identification number ("PTIN"). Read this section to help understand other data security concerns.

- 1 **Update or create your written data security plan, as required by applicable law.** IRS Publication 4557, [Safeguarding Taxpayer Data: A Guide for Your Business](#), includes information on data security plan requirements. Don't have a plan? AICPA Tax Section members can utilize the [Gramm-Leach-Bliley Act Information Security Plan Template](#). The AICPA website also includes numerous additional resources on its [Professional responsibilities in data security for tax professionals](#) web page.

- 2 Review the firm's controls pertaining to confidential client information.** Emphasize that firm policies regarding management and use of client information should not be bypassed due to tax deadlines. Consider updating your policies for new risks. Not sure where to start? [Controlling Your Data](#) is a good place.
- 3 Review the firm's planned response to a data security incident, including its cyber liability insurance coverage.** Don't have an incident response plan? CNA policyholders may utilize [eRiskHub](#). eRiskHub offers various resources, including training, to help manage data security risk.



**4 Train all firm members on the importance of protecting client data.** Both physical and electronic data should be protected at all times, and especially during this busy time of the year. Read [The Armor of Awareness](#) to learn each firm member's responsibility to protect client data.

**5 Be prepared for phishing emails.** As deadlines approach and CPAs become tired and stressed, they are more likely to click on a malicious link or open an attachment that contains a virus. Don't get victimized by a cybercriminal. Includes tips for preparing for a cyber security incident, including phishing.

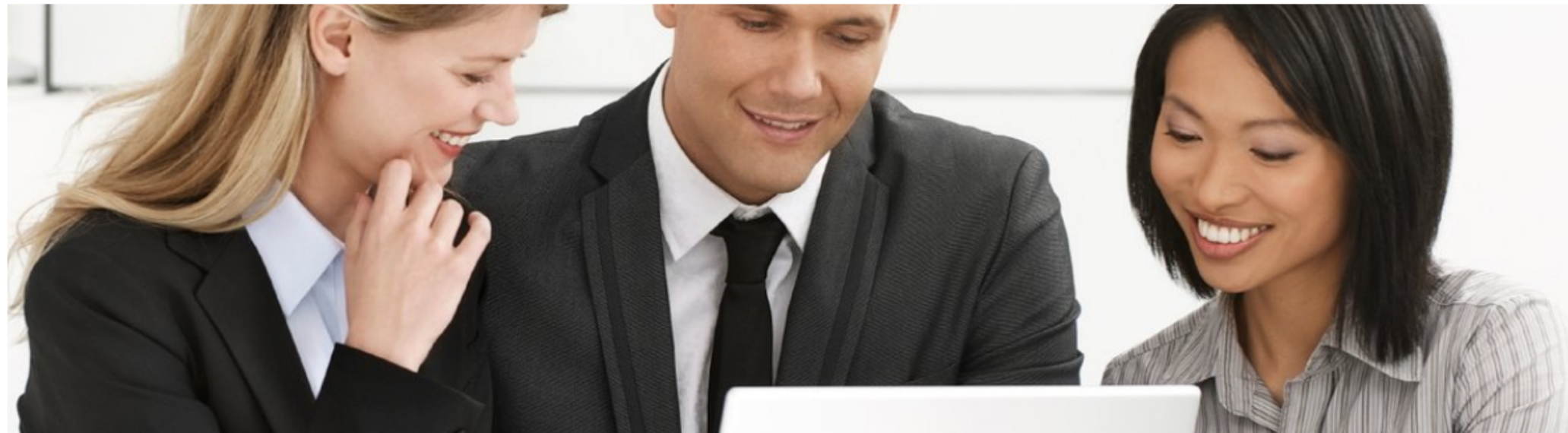
# 4 ways to assist staff in preparing for tax season

Staff are critical to a successful tax season. Review this section to help ensure that you are addressing their needs.

- 1 Provide a training plan for staff and independent contractors.** The training should focus on changes in local, state, and federal tax laws, including the American Rescue Plan Act, the Consolidated Appropriations Act, the Coronavirus Response and Relief Supplemental Appropriations Act, and those related to new and expiring tax provisions. Include a timeline for completion. Consider separate training tracks for staff, managers, and partners whose responsibilities regarding tax return preparation may differ.
- 2 Review tax research resources and training materials.** Ensure that up-to-date resources are available to staff. Verify that staff has access to electronic tools and databases used as reference materials.



- 3** **Revise procedures based upon last year's post tax-season wrap-up meeting.** The purpose of this review is to improve current year processes for managing tax return preparation.



- 4** **Remind the tax department to amend engagement letters for changes in scope.** For a refresher on how scope creep can be detrimental to the firm, read [Don't Let Scope Creep Lead You Out of Bounds.](#)



# What to do during tax season

Busy season is when the rubber meets the road. Keep these items in mind to help mitigate professional liability exposure.

## WHAT TO DO DURING TAX SEASON

# 4 items to memorialize in a control log to help avoid missed deadlines

Every busy season, there are untimely filed tax returns that result in claims. A control log mitigate the risk of a return being filed late or missed. Consider adding these items to your docket system.

- 1 Include all tax returns and related forms.** Remember to include estate tax returns, those related to minor children, unfunded trusts, foreign financial accounts, and state filings, even if the client falls below the filing threshold in the current year or if no tax is due.



- 2 Incorporate COVID-19 related deadlines, if applicable.** If a client has engaged the firm for assistance in applying for loan forgiveness or calculation of the ERC, document the final date to file the request into the firm's control log or docket system. If a deadline is missed and proceeds are not forgiven or credits not received, the client may blame the CPA.
- 3 Remember to include IRS and state correspondence with due dates for notices and information document requests.** While the IRS continues to work its way through the mail backlog, practitioners continue to experience delays. Obtain powers of attorney (IRS Form 2848) to represent clients and resolve tax issues.

Documentation will be critical for penalty abatement, including receiving notices from clients timely and retaining copies of certified mail receipts. If correspondence is lost or misplaced by the IRS, and the CPA does not have appropriate documentation, clients may blame their CPA for adverse consequences. Consider including reminder dates in the control log for follow-up with the client or tax agency, if warranted.





## 4 Consider memorializing the following information in the control log:

- Original and extended filing due dates for each tax return,
- Responsible client parties,
- Information receipt date,
- Date(s) additional information is requested or questions asked,
- Date(s) of client response(s) to additional information requested,
- Completion dates by preparers and reviewers,
- Approvals by the firm and client, and
- Assembly, delivery, mailing, filing and acceptance dates.

# 5 things to remember when testing tax software

Tax software is a tool to assist CPAs in the preparation of tax returns, but the CPA remains responsible for its output. Take the time to ensure that the tax software is working properly and that staff are properly trained on its use.

- 1 **Test new or updated tax software** to ensure that it is working properly, and test integration with other applications.
- 2 **Review new forms issued by the IRS and instructions** concerning how to enter information in the software for accurate completion of the forms.

- 3** **Check the software website for updates throughout the tax season.** Address all updates immediately. Determine if any programming errors noted last year or earlier in the tax season have been corrected.



- 4** **Train all tax professionals on the use of the software,** new capabilities and the most efficient way to use the programs.
- 5** **Restrict and monitor access to tax software and client tax returns** to defined, authorized users.



# 13 items to cover in a pre-tax season staff meeting

Welcome to tax season! A kick-off meeting is a great way to remind staff of the firm's policies and procedures to help ensure consistent execution.

- 1 **The economy and its impact on the firm.** Address firm policies, such as those related to clients who are not paying. Remind professionals of the firm's policy on [Third-Party Verification Letters](#).
- 2 **Procedures revised** following last year's post-tax season wrap-up meeting.
- 3 **Changes to organizers**, especially those related to PPP loan forgiveness, ERC, federal, state, local and other COVID relief received, FBAR and FATCA filing obligations,

virtual currency transactions, and the sharing economy.

## 4 Applicable professional standards including:

- AICPA [Statements on Standards for Tax Services](#),
- AICPA [Code of Professional Conduct](#), and
- U.S. Treasury Department [Circular No. 230 \(Rev. 6-2014\)](#).



## 5 The firm's tax practice quality control manual.

6 Tax preparation processes and procedures.

7 Firm privacy and security policies, including how to respond if a “phishing” email is received.

8 Engagement letter usage, including scope changes, tax planning, tax consulting and tax audit representation services.

9 E-filing procedures.

10 Penalties applicable to taxpayers and preparers.

11 Frequent errors found by reviewers on prior year individual and business income tax returns. Remind preparers to exercise due diligence in compiling and assembling tax information, and to communicate clearly with clients about any concerns.

12

The importance of documenting discussions with clients.

13

**Encourage consulting with others when issues arise.** Whether client-related, technical, or ethical, issues should be addressed as a firm, not an individual. Ensure that nobody believes that they are solely responsible for problems.



# 9 tasks that should be performed for each client

Consistency is the name of the game with client files. Consider taking these steps early, before things become too hectic.

- 1 **Assign clients/tax returns to preparers and reviewers** based upon their experience and training.
- 2 **Review the prior year workpaper file and permanent file.**
- 3 **Set up the current year file, update client profiles, and check data** transferred from last year's files.

- 4 **Organize workpaper files.** Include an index, checklists, and applicable notes from last year's files, including, but not limited to, historical basis calculations, net operating loss, credits, and other carryover information.
- 5 **Check tax form instructions for changes** in tax laws or regulations, changes to tax forms, and additional forms to file.
- 6 **Check descriptions, formats, and formulas in document templates** created from support schedules for the prior year and update them for necessary changes. Notably, professional liability claims may arise from mathematical errors due to incorrectly updated spreadsheets.



**7 Identify clients that have undergone significant change.** "Change" may include those clients significantly affected by COVID-19 and related relief legislation, and other tax law changes implemented or expiring in 2021. If not previously done, schedule a meeting with the client to discuss the impact of the changes to 2021 returns (e.g., new syndicated conservation easement investments, micro-captive insurance companies, "COVID homes," PPP loan forgiveness, ERC, changed filing status, preparation of returns declaring foreign or out-of-state income).

**8 Review client data promptly upon receipt,** making inquiries if information appears to be incorrect, incomplete, or inconsistent, and document discussions with clients. Awkward situations may arise when information that the CPA has had for months is reviewed near the deadline, and either required information is missing or additional information is requested.

**9 Use IRS e-services to verify estimated tax payments** made by clients in past and current years. Submit transcript requests via the IRS e-Services Transcript Delivery System. Remember that the IRS no longer faxes tax transcripts. Many states provide firms with a similar ability to verify state payments. The new IRS Tax Pro Account may be more helpful for certain tasks, such as verifying receipt of EIPs or Advanced Child Tax Credit payments.

# 3 ways to plan for deadlines and help avoid careless errors

Tax season is a hill that becomes steeper as April 15th approaches. Taking these steps now may reduce the incline.

- 1 **Train staff to perform “tick and tie” reviews** of *simple* returns during busy season.





**2** **If the final information required to complete the return is minor** and will not be received until close to the deadline, consider preparing an initial draft return, including reviewing and filing for an extension early.

**3** **Obtain a Form 8878, IRS e-file Signature Authorization for Form 4868 or Form 2350**, or state equivalents signed by the client, prior to filing an application for an extension of time to file or the final return.

## 2 Keys to Survival

The best laid plans may need revision. Here are additional tips.

- 1 **If a procedure is not working, change it.** Procedures were designed to accomplish certain tasks in an efficient manner. If such efficiency is not being achieved and a better idea has been proposed, try it.



**2 Routinely monitor all tax work** to help prevent errors; and, in turn, professional liability claims. Most tax-related professional liability claims arise from inadequate review of client data and completed returns, rather than inadequate training.

A photograph of two healthcare workers in full personal protective equipment (PPE), including white gowns, blue surgical masks, blue gloves, and blue bouffant caps. They are embracing each other in a supportive hug. The background is a clinical setting with white cabinets. The entire image is overlaid with a semi-transparent dark blue filter.

# Addressing the Impact of COVID-19



# 4 COVID-related items to keep in mind

COVID has provided some unique challenges to CPA firms and their clients. Here are additional items to keep in mind this tax season.

1

**Ask clients about tax-related COVID relief**, including:

- If EIPs and/or Advance Child Tax Credit payments were received;
- If the client benefited from the ERC;
- The status of any loan or debt forgiveness, including the Paycheck Protection Program and student loan forgiveness;
- If other benefits were received from federal, state or local governments or non-profit or for-profit organizations; and
- Other benefits of the American Rescue Plan Act, such as above-the line charitable contributions.

**2** **Remind clients that they will need to remit** payroll taxes deferred under the CARES Act no later than December 31, 2021 and December 31, 2022.

**3** **Notify individual and business tax clients with “COVID homes” of potential additional filing obligations and tax effects.** What’s a “COVID home”? Who needs to be notified? Read the Risk Alert [“COVID Homes” Create Professional Liability Risk for CPA Firms](#) for information on how claims may arise. Consider sending a notification letter to affected individuals. AICPA Tax Section members are able to receive a sample letter.

**4** **Fortify the firm’s data security protocols** as remote working is likely to be more prevalent in the future. Consider establishing a virtual private network (VPN) if one is currently not in place. Remind all firm personnel of existing data security policies and revisit these policies if updates are needed. Establish a secure portal to permit clients to safely transmit information to the firm. [Data Security Tips to Help Weather a Pandemic](#) outlines additional considerations and recommendations as well as Don’t get victimized by a cybercriminal.

# Summary

Tax season is busy, so preparing for it now will reduce the stress experienced January through April. This preparation will help reduce exposure to professional liability risk. Pre-tax season training of personnel and proactive review of administrative procedures will improve efficiency through April 15th and beyond.



## Additional Resources

- [Risk Alert: IRS Scrutiny of Abusive Micro-Captive Insurance Companies Can Increase a CPA Firm's Professional Liability Risk](#)
- [Risk Alert: IRS Scrutiny of Conservation Easements Increases a CPA Firm's Professional Liability Risk](#)



- [Round Two – Paycheck Protection Program Loan Application Assistance and Forgiveness Application Assistance Services](#)
- [Addressing Risks Related to the TCJA and Wayfair, Journal of Accountancy, February 2019](#)
- [Mitigating Risk Related to Tax Reform, Journal of Accountancy, September 2018](#)
- [Documentation is Your Ally in Tax and Other Services, Journal of Accountancy, July 2015](#)

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