



Legal vs. Illegal Tax Strategies

What Every Idaho Taxpayer Should Know Before Saying Yes

By Jason Berrett, EA — Berrett Tax & Finance, Inc. — March 20, 2026 | 04:41 PM MT

Every year, Idaho families and business owners get pitched tax strategies promising big savings. Some are completely legitimate. Others are IRS red flags waiting to happen. Here’s the plain-English breakdown — 27 of the most common strategies, the legal version and the version that gets people audited.

■ TAX AVOIDANCE = Legal

Using deductions, credits, and smart timing to pay exactly what you owe — and not a penny more. Every American’s right.

■ TAX EVASION = Federal Crime

Hiding income, fabricating deductions, or lying to the IRS. Up to 5 years in prison + \$250,000 in fines per offense for individuals and \$500,000 for corporations.

The Full Breakdown — Legal vs. Illegal

Strategy	■ Legal Version — Done Right	■ Illegal / High-Risk Version
RETIREMENT		
Roth IRA Conversion	Convert pre-tax retirement funds to Roth during a lower-income year. Pay tax now, grow tax-free for life. Idaho’s 5.3% flat rate makes timing especially valuable.	Using discounted asset values to artificially lower taxes owed at conversion. Courts have struck this down repeatedly.
Self-Directed IRA	Invest your IRA in real estate or private loans through a proper custodian.	Storing IRA gold at home or doing business with your own IRA — triggers an immediate taxable distribution.
Backdoor Roth	Make a non-deductible IRA contribution then convert to Roth — a legal path for high earners above the Roth income limits.	Skipping the pro-rata calculation when you have other pre-tax IRA funds, understating taxable income at conversion.
BUSINESS OWNERS		
S-Corp Salary Split	Pay yourself a reasonable, documented salary. Take additional profit as distributions — saving self-employment tax on the distribution portion.	Paying yourself zero salary to avoid all payroll taxes. The IRS actively audits this and requires ‘reasonable compensation.’

Strategy	■ Legal Version — Done Right	■ Illegal / High-Risk Version
Hire Your Kids	Pay your children for real work in your business. Wages are deductible to you and taxed at their lower rate — or zero if under the standard deduction.	Paying a child for work they didn't do, or inflating wages with no documentation of actual tasks performed.
Home Office Deduction	Deduct a portion of home expenses for a space used exclusively and regularly for business — nothing else.	Claiming the living room because you sometimes answer emails there. 'Exclusive use' is a hard IRS requirement.
Business Vehicle	Deduct the business-use percentage. Heavy SUVs (6,000+ lbs) may qualify for first-year bonus depreciation under Section 179.	Claiming 100% business use on the family car with no mileage log. No log = no deduction if audited.
QBI Deduction	Pass-through business owners may deduct up to 20% of qualified business income — one of the biggest deductions for Idaho small businesses.	Restructuring a business artificially just to generate QBI without changing actual operations.
Captive Insurance 831(b)	Create a small insurance company to cover genuine, documented business risks with independent, arm's-length pricing.	Circular premium schemes with no real risk transfer. IRS listed transaction since 2016 — penalties are severe.
Augusta Rule	Rent your home to your business for up to 14 days/year. Rental income is tax-free to you and deductible by the business.	Renting for 15+ days without reporting income, or skipping fair-market-rate documentation.
REAL ESTATE		
Cost Segregation	A qualified engineering study reclassifies building components for faster depreciation — 5, 7, or 15 years instead of 39. IRS-approved when done correctly.	Claiming reclassified depreciation without a real engineering study, or misclassifying personal-use property.
1031 Exchange	Roll investment property proceeds into a like-kind property — deferring capital gains indefinitely when done by the book.	Missing the 45-day ID or 180-day closing deadlines, or treating a primary residence as investment property.
Real Estate Professional Status	750+ hours/year materially participating in real estate — rental losses can then offset ordinary income including W-2 wages.	Claiming this status while working a full-time W-2 job with no time logs to prove the required hours.
Opportunity Zone		
CHARITABLE STRATEGIES		
Donor-Advised Fund	Contribute cash or appreciated assets, take the full deduction now, and direct grants to charities on your own timeline.	Taking a deduction for funds not actually contributed, or directing grants back to yourself or a related party.

Strategy	■ Legal Version — Done Right	■ Illegal / High-Risk Version
IRA Charitable Distribution	Age 70½+? Give up to \$108,000 directly from your IRA to charity (2025). Zero income tax owed on that amount.	Withdrawing IRA funds first then donating. You owe income tax on the withdrawal even if you give every dollar away.
Conservation Easement		
IDAHO-SPECIFIC		
Idaho Capital Gains Deduction	Sell qualifying Idaho real property — 60% deduction on those gains. Precious metals: 100% deductible from Idaho income starting 2025.	Claiming the deduction on non-qualifying property, or failing to report the federal capital gain alongside the Idaho deduction.
PTET Election	Idaho S-Corps and partnerships can pay state tax at the entity level, creating a federal deduction that bypasses the \$10,000 SALT cap.	Missing Idaho's election deadline (can't be undone), or electing without confirming the math actually saves money.
Idaho Grocery Credit		
CREDITS & DEDUCTIONS		
Solar / Energy Credits	The Investment Tax Credit (ITC) for qualifying solar and renewable installations — residential and commercial.	Inflating installation costs to generate a larger credit, or claiming on equipment not placed in service by year-end.
R&D; Credit	Dollar-for-dollar federal credit for businesses developing new products, software, or processes that meet the IRS four-part test.	Claiming the credit for routine improvements or admin work that doesn't meet the qualified research definition.
Fuel Tax Credit	Real credit — for off-highway business use only: farming, construction, commercial equipment. Must be documented.	Claiming it for regular car fuel. Went viral on social media 2024–2025. IRS 2025 Dirty Dozen specifically flags this.
Education Credit (AOTC)	Up to \$2,500/student for qualifying college expenses in the first four years. Partially refundable.	Claiming beyond eligible years, for non-qualifying expenses, or inflating tuition amounts paid.
Overstated W-2 / Withholding	Report accurate income and withholding from your actual W-2. This is just accurate filing — fully protected.	Fabricating income or withholding to generate a large refund. Federal fraud — IRS holds and investigates these returns.

7 Red Flags That Apply to Every Strategy

■ Red Flag	Why It Matters
The deduction is bigger than what you actually invest	Real deductions reflect real costs. A \$4 write-off for every \$1 invested is a scheme, not a deduction.
They promise a specific savings amount upfront	Nobody can legally guarantee a tax outcome. Results depend on your personal facts and current law.
The appraiser was hired by the promoter	Valuations require an independent appraiser. When the promoter picks and pays them, independence is gone.
They say not to mention it to your CPA	Legitimate strategies survive outside review. Secrecy means the promoter knows it won't hold up.
You saw it on TikTok or social media	IRS 2025 Dirty Dozen specifically warns against viral social media tax advice. Verify with a professional first.
The preparer won't sign your return	Every paid preparer must sign and include their PTIN by law. Refusal means they know it won't survive scrutiny.
Your fee is based on how much you save	Contingency fees tied to tax savings are a classic marker of abusive shelter promoters per IRS and AICPA.

Have you been shown a tax strategy from another source? We are happy to review it with you. Bring it to us before you sign anything — we can help you evaluate whether it holds up, identify any IRS red flags, and make sure it fits your complete tax picture. ■ (208) 887-1817 ✉ info@boisetaxadvisors.com ■ boisetaxadvisors.com Berrett Tax & Finance, Inc. | Jason Berrett, EA | Over 25 years serving Idaho families and businesses

Sources: IRS Dirty Dozen 2025 (irs.gov) | IRC §7701(o) Economic Substance Doctrine | Journal of Accountancy, 'Avoiding Fallout from Aggressive Tax Strategies,' June 2021 | IRS Notice 2017-10 (Conservation Easements) | IRS Notice 2016-66 (Captive Insurance) | Idaho HB 40 — 5.3% flat income tax rate, 2025 | Idaho State Tax Commission Capital Gains Guidance 2025 **DISCLAIMER: Educational purposes only — not legal, tax, or financial advice. Consult a licensed tax professional before implementing any strategy. | Berrett Tax & Finance, Inc. | March 20, 2026 | 04:41 PM MT**