

# IRS AUDITS – THE INS AND OUTS

## **WHAT IS AN IRS AUDIT?**

The IRS defines an IRS audit as a discussion and review of the individual or business financial situation to ensure taxpayers are complying with the tax laws and reporting the correct amount of tax. Actually this is not a discussion. A discussion is when two people or groups of people are voluntarily participating in mutually beneficial conversation. What usually happens during an IRS tax audit can't be considered discussion. It's more like an inquisition and the business owner is the one in the spotlight being grilled and drilled.

For example, they ask you questions that are intrusive, like did you receive any inheritances? Did you have any car accidents this year? Do you have any money buried in your yard?

## **WHO DOES THE IRS USUALLY AUDIT?**

The IRS usually selects small defenseless businesses or middle income individuals that have what they call high deductions (charitable contributions, job expenses). These people don't have hundreds of thousands of dollars to pay CPA's or attorneys to help them prevail. The IRS knows this and takes advantage of it. In my days at the IRS, the larger the business was the more likely they had a CPA or attorney to argue with me and drag the case out hoping to tire me out so that I wouldn't do a thorough job of reviewing the company's books and records.

Once during the audit of a medium sized company the attorney slammed his fist down on the table and started screaming at me after I presented my findings that the company overstated their deductions. Most times these scare tactics cause IRS agents to back down from audits of medium to large companies and concentrate on sticking it to the "mom and pop" small

businesses. Of course I didn't back down that day but I did go home with a splitting headache!

## **WHY DOES THE IRS AUDIT INDIVIDUALS AND BUSINESSES?**

The IRS, according to them, audits individuals and businesses to ensure taxpayers are complying with the tax laws and reporting the correct amount of tax. Truth is, in order for the corporatocracy to keep their power they have to rob the common people of their resources. These, "powers that be" use the IRS as mob workers to collect the extortion money from individuals and small businesses.

Nine times out of ten the IRS employee is not that nice and understanding. Many times the IRS selects people to hire that are mean and or tough -not softies. The reason they don't like softies is because you can't be a pushover in an environment full of bullies.

Whether you believe that they are lawfully collecting the tax or not, it is morally wrong, just like slavery was, to take people's resources and use them for things they don't want their money used for. For example, Christ Piss, a so-called artist rendering of Jesus upside down in a jar of piss. This "art" was paid for with tax dollars.

If you believe that government is entitled to as much money as they are taking from people I invite you to read the Constitution, Bill of Rights and related Supreme Court cases. The federal government was given a limited number of duties, mainly to protect the people. Now they have thousands of roguish departments out there feeding off of what we earn. Okay, let me get off my soapbox.

## **WHEN DOES THE IRS AUDIT BUSINESSES AND INDIVIDUALS?**

Know this - the IRS is like a slow moving cruise liner. Once you file an individual or business tax return it could be two or even three years before they decide to audit that return. That is standard operating procedure. For example, if on March 15, 2014 you filed a 2013 corporate small business tax

return or on April 15<sup>th</sup> 2014 you filed a 2013 1040 tax return including the Schedule C (Profit or Loss from Business), it could be 2015 or 2016 before they decide to audit the return. That's why it's imperative that you keep your business and tax records for at least 3 years. I usually tell business owners to keep these records at least ten years! If they audit you and find audit adjustments they WILL drag all open years into the audit. An open year is a year that you filed that has not yet passed the statute of limitations.

## **HOW AND WHERE DOES THE IRS CONDUCT AUDITS?**

Individuals and businesses are notified of an audit by mail or by phone. When I was an agent we were told to call the business owner first, then follow up with a letter after we had contacted them by phone.

A **correspondence audit** is an audit that is handled by mail. Information document requests are usually included in the letter, but beware; the information requested on the form may not be all they eventually ask for. They may ask for more records if they don't find adjustments, hoping to find adjustments. And they will ask for more records if they do find adjustments. They will milk you for every dime they can.

**Office audits** are audits that require you to come into an IRS office. When you receive letters informing you of an office or field audit they will also usually include a request for documents, the privacy act notice and a form specifying "your rights as a taxpayer". The IRS always wants your bank statements for every account, expense records and income records. Other records requests will vary.

**Field audits** are audits that require a revenue agent to come to your home or business location. The field auditor/agent likes to conduct the audit at your business. This is so they can observe what you do, how you do it and how much money you bring in daily. For example, they want to see if you store a lot of cash, or if you have a lot more customers than your records show.

**Criminal Investigation Division (CID)** audits take place if the revenue agent or auditor determines that income on the return they are auditing was grossly under reported. They will write up a referral to the IRS criminal investigation division when this occurs. CID agents are the ones that carry guns. They do an investigation to determine if a person needs to be prosecuted. In my case, they knew my stand but they were determined to shut me up, so they got a group of CID agents to interview people that I was in regular contact with (my children's school, other business associates, tax clients) and they eventually started a case, on misdemeanor willful failure to file tax returns. Now, I know of people that have raped and murdered people and received less prison time than I did. That shows you that the corporactocracy is all about protecting their power and people that expose them are punished.

### **WHAT SHOULD I DO IF I RECEIVE AN AUDIT LETTER?**

What should I do if I receive an audit letter? It is true that you should respond but you want to assess your situation before rushing to the phone. Figure out what they are asking for. If they just ask to verify something by having you mail it in then you may want to just gather those documents and mail them. However, if they are asking for multiple documents, an office audit or worse, to come out to your office and do an audit, then you may want to consider getting help from someone that knows how to deal with them.

The IRS says that you have the right to privacy, the right to know why information is being requested and how it will be used. Also, you have the right to confidentially and the right to be treated in a professional, courteous manner. And as stated above, you have the right to be represented by someone that knows how to deal with these people.

Actually, when people start asking questions about why they are being audited, how their information will be used, how secure their social security number is and who knows their private information... the IRS employees typically get angry and frustrated because they don't like to be questioned.

Although it is their job, they like the process to go smoothly and for filers to just roll over and comply. They are not used to being questioned and sometimes they retaliate by digging deeper into your life.

Once when I was working on assignment at the downtown Atlanta office I was in the lunch line behind two other IRS employees. The male told the female that the day before, somebody called a few minutes before quitting time with a lot of questions. She asked him what he did and he told her that he placed the caller on hold and went home. This is the typical mentality of a person that thinks that he has the entire United States government to back up everything that he does.

Communication is key during the audit process. Let's discuss communication. If you are being audited there are some things you need to know.

First, always request everything that has been said be put in writing. When the auditor tells you that your bank records check out fine, either have her put that in writing or compose and send her a letter acknowledging that you understand her verbal communication to you that your banks statements check out fine. The reason that you should get everything in writing is multifaceted. First, you don't want the story to change if for some reason the auditor decides to do a switcheroo on you. If the auditor clears your bank accounts and reports that your reported income does not need changes he may get sent back "out to the field" to re-check for ways you are under-reporting income because his time on your case has taken too many hours. If an auditor has too many hours on a case that doesn't produce more dollars for the IRS, they may get ridiculed and at worse not get a promotion. Dollars for hours is key in the IRS. The agents that close cases with high dollars but few hours move up in the world.

Another reason you should get everything in writing is in case the current auditor gets pulled from the case and replaced with someone else. Many times when IRS employees apply for promotions they have to leave their current office or even move to a new city. They are not given the luxury of staying around to complete their open cases. Another agent is assigned to

the case and they are usually not interested in what was done in your favor in the past.

Finally, the majority of the time when you are dealing with the IRS, the left hand doesn't know what the right hand is doing. If you are dealing with Sue on an office audit and you call the IRS one day and Sue is not there do not talk to Bob because Bob is probably not going to want to look up your case much less deliver a message to Sue when she returns. I know a couple that spent six months running around in circles with the IRS because they were talking to several different people about the same situation and those employees were not communicating among each other. By the time the couple told me what was going on they were so wound up that they just rolled over and complied with everything the IRS said. This response is what the IRS wants from business owners.

There are many successful small business owners all over the country. They have worked hard and done well for themselves. On the other hand, there are many IRS employees that are stuck in what many consider dead-end jobs. These people may be jealous of you, the business owner, and may take it out on you by requesting to see everything but the color of your underwear. Taking you through the wringer may be the agent's way of paying you back for being successful. If you detect contempt for you by an IRS employee you can do one of two things. You can ask to speak to their supervisor or someone over their heads to find out why you are being persecuted or you can go hire a professional that will put a stop to their harassment. Either way you don't have to put up with unnecessary scrutiny by an IRS employee. If you feel that you are being harassed you can complete the Section 1203 Allegation Referral Form [http://www.patriotnetwork.info/Alleg\\_Referral.pdf](http://www.patriotnetwork.info/Alleg_Referral.pdf)

The details about IRS harassment and retaliation are found here:

## **IRS Non-Retaliation Policy**

Section 1203 of the IRS Restructuring and Reform Act of 1998 (RRA '98), created a statutory provision requiring termination of IRS employment for misconduct. Section 1203(a) provides that the Commissioner of the Internal Revenue shall terminate the

employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. One of the acts described in subsection (b) is retaliation.

Section 1203 (b)(6) provides that:

Violations of the Internal Revenue Code of 1986, Department of Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of **retaliating against**, or harassing, a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service.

is an act or omission requiring termination.

IRM Section 6.751.1.1 addresses administrative disciplinary matters. Exhibit 6.751.1-1 is the Internal Revenue Service Guide for Penalty Determinations. Violations of RRA '98, Section 1203 (b)(6) is included in the Guide for Penalty Determinations. This Exhibit shows that the penalty for a First Offense for an RRA '98 1203 (b)(6) offense is removal.

<https://www.irs.gov/Businesses/Small-Businesses-%26-Self-Employed/IRS-Non-Retaliating-Policy>