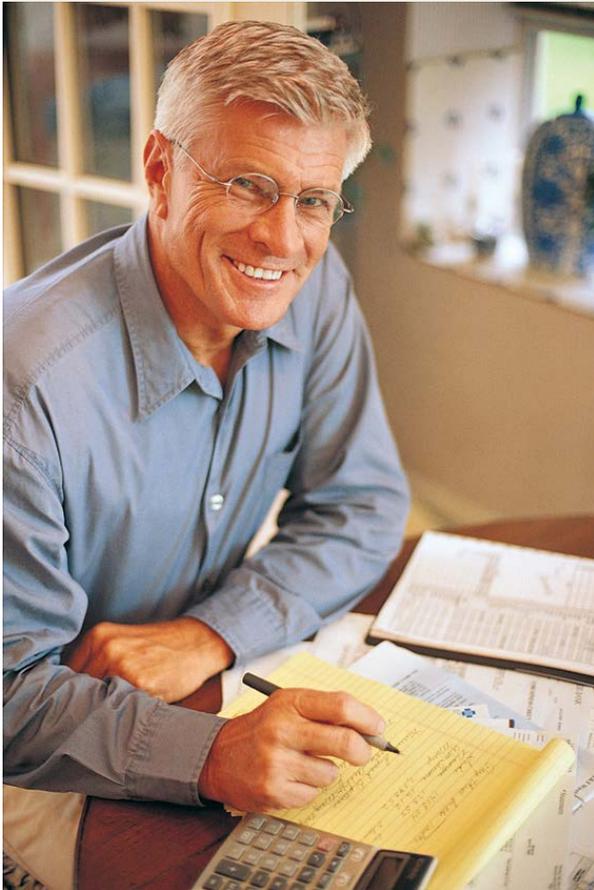


ELLSWORTH LAW
GROUP

IRS Tax Lawyer
Legal Services

- Tax Audit Defense
- Back Tax Settlements
- Innocent Spouse Relief
- Federal Criminal Defense
- Income Taxes



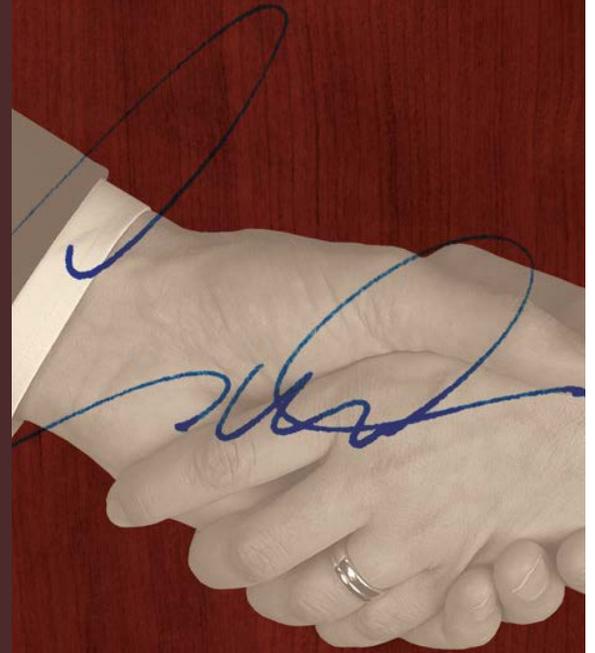
ELLSWORTH LAW
GROUP

CONSULTATION

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How to Win
Your
IRS TAX

TAX AUDIT
SOLUTIONS



Going through a Tax Audit? Protect Yourself!

Going through income tax audits alone can be a scary thing. It can be not only emotional but also a financial slippery slope for everyone involved. Use ELLSWORTH LAW GROUP and get:

- 40 YEARS OF EXPERIENCE
- 1000+ AUDITS DEFENDED
- ADVANCED DEGREES IN TAXATION
- EXPERIENCE NATIONWIDE IRS AUDIT LOCATIONS

When it's your own money at stake, you absolutely must get the very best tax law firm out there, to defend you. Ellsworth Law Group is known nationally and throughout the IRS as one of the most comprehensive and aggressive tax law firms at work today. We will go to any length to prove your legitimate deductions and we will never let you fall into some IRS trap meant for the unwary. We will take your hand and walk you through the audit zone safely. Thousands have safely relied on our law firm and you can too!



Quantify Your Audit Risk Your Tax Lawyer Ranks at the Top

John Ellsworth of Ellsworth Law Group has long been recognized nationally as a leader in IRS tax audit defense and strategic representation. John has a brilliant track record from his 40 years of defending taxpayers caught up in the IRS audit net. His goal: to set you free.

Securing Your Audit Result

Worried about a tax audit?

Now more than ever there is cause for concern. In large part because of the long recession, the government is in huge need of tax dollars to keep the government going. Thus, more Americans than ever may be subject to unwanted attention from the Internal Revenue Service this season as the government pumps billions of dollars into tax collection.

Ellsworth Law Group stands ready to take on the defense of your tax case and get to the 100% result you need and deserve: NO ADDITIONAL TAX DUE.

Are You Fearful of Fraud Charges?

Relax. We help our clients avoid civil fraud penalties in case after case. Of course if you think there might be criminal liability resulting from your tax reporting that you must call us immediately.

Free From the IRS Audit

We can get you there. Our strategic tax audit service can set you free from the clutches of the IRS. After all, the IRS wants one thing from you: your money. Help us help you today by calling without delay. Thank you.



Going through a Tax Audit? Protect yourself!

PERSONAL AND BUSINESS AUDITS

DIFFER. A business audit exposes many more areas of inquiry than a personal audit. This is because business tax returns are much broader than personal returns. Business tax audits include Schedule C businesses, S Corporations and C Corporations. Tax lawyer John E. Ellsworth of Ellsworth Law Group has defended business tax audits since 1972. In that time he has helped thousands of businesses with their tax cases. Here are some of the important ways we assist and situations where we can help:

- We appear at the audit in your place.
- We never allow our clients to speak to the IRS-this preserves the integrity of the defense, keeping unsaid the things that should never be said to an IRS auditor
- We help guard against Shareholder Derivative Suits (suits brought by an existing shareholder on behalf of the company against the officers and directors of the company. The cause of action for this kind of suit is grounded on an alleged breach of fiduciary duty. Because these kinds of suits are becoming increasingly common and they grow more risky, it would be wise to secure expert and competent lawyers such as our firm to handle your defense)
- If an informant has given information to the IRS (think angry ex-spouse or business partner), we obtain their statement and contradict where necessary
- You claim tax shelter investment losses on your tax return. This is a juicy tax audit subject and we help in the defense of your claimed loss
- You have complex investment or business expenses on your tax return. We are highly experienced in the area of transaction law and its tax effects
- You have large amounts of itemized deductions on your tax return that are outside IRS audit parameters. We can insulate these in advance

- You own or work in a business which receives cash in the ordinary course of business. Lawyers beware.
- Your business expenses are high in relation to your business income.
- You have rental expenses on your tax return.
- A previous IRS audit resulted in a tax deficiency.
- You have complex tax transactions without explanations on your tax return.
- An IRS auditor wants to come to your place of business and talk to your customers or clients-call us without delay and we'll step in.
- An IRS auditor wants to come to your home and you don't want them there-call us without delay and we'll step in.

So what's your business bottom line? For one, you can relax once you hire us to defend your tax audit. Tax Audit Attorney John Ellsworth has the answers for you and can help you come out of the IRS audit with your money and assets intact.

Give your Tax Audit Concerns to our Team of Lawyers

Going through income tax audits alone can be a scary thing. Its can be not only emotional but also a nerve-racking experience for all involved. Feelings of helplessness or apprehension are all normal. Don't risk going it alone! Hire an income tax specialist from Ellsworth Law Group to defend you.

At Ellsworth Law Group, we've represented individuals and businesses going through income tax audits for several decades. We want to help you with your tax audit!

Contact us to schedule a Tax Attorney consultation. Evening and weekend hours are available by appointment. As this tax law firm represents individuals and business and is always pleased to meet with you, please call us at 800-946-8122.

IRS Audits

The IRS issues a high number of tax audits every year; some IRS audits are randomly selected, and some IRS audits are issued based on a DIF score, a kind of computer score that analyzes returns and pushes some to the front for audit.

There are three main kinds of IRS audits:

1. The Correspondence Audit

This is the type of audit most people experience, and it's the most common type. In fact, many people receive these each year without even realizing it's what most audits consist of. The correspondence audit is simply a letter sent to you by the IRS that identifies a possible error, information regarding the error, and instructions on how to remedy the problem.

In some cases this may result in actually receiving a larger refund, but more often than it means you'll owe some additional money unless you can prove otherwise. This correspondence also includes information for how to challenge the IRS's claim and what information you might need if you want to fight it.

Either way, these audits are relatively painless unless you've done something major such as failing to report something significant. As long as you take care of the problem in a timely fashion, you're not likely to encounter any further correspondence from the IRS.

2. The In-Office Audit

This is one of the audit types that people usually think about and fear. In these situations, you actually have to gather information and take it to an IRS office to prove that your return is accurate. The auditor will schedule a date and time to meet and suggest what documentation you should bring so that you can substantiate your claim.

It's obvious to see how this can be something to fear. If you haven't kept good records or have lost receipts or other important

documentation, you obviously know that it can be difficult to prove your claim. Depending on what the IRS asks for, it could be as simple as showing a few expenses to trying to verify that something like your home office actually qualifies for the home office deduction.

Of course, if you have good records and aren't trying to pull a fast one, even these audits are relatively painless. The IRS may see something differently than you do, but this is your chance to prove it and hopefully fix the issue before additional penalties are enforced. This is where having a tax attorney or accountant can be beneficial.

3. The Field Audit

The final type of audit isn't typically going to happen to an individual. The field audit is one where the IRS sends an agent into the field to meet with a taxpayer on-site. These audits are most commonly done on businesses or self-employed individuals making a lot of money. These audits are also sometimes the most feared.

If you do happen to be subject to a field audit, it's imperative to have legal counsel. There may be significant sums of money at stake and tax laws can be complicated, so having someone on your side that specializes in tax law can potentially save you or even your business.

The Importance of Keeping Good Records

As you can see, fearing the IRS and an audit probably isn't as big of a deal as you may think. Everyone has stories about a friend who had their home ransacked by the IRS trying to turn up receipts from 5 years ago, but in most cases this just isn't true. For the average taxpayer an audit is simply going to be triggered by inconsistencies in their computer and can be fixed by mailing in proof of something or an extra payment.

Unless you're claiming a lot of extraordinary deductions or own a business, chances are an IRS audit will be little more than correspondence. Even if it's as simple as that, without keeping detailed records you could find yourself in a situation where you are actually correct, but can't prove it. If you can't prove it, the IRS wins.

By retaining our law firm, you gain the power and expertise of tax lawyers who know how to deal with Revenue Agents and IRS tax audits. For openers, once our firm is hired by you, the assigned Revenue Agent or Revenue Officer must deal directly with our firm, instead of with you. This keeps you much safer in the tax audit than trying to deal with the IRS by yourself and risk saying something that might make things much worse for you. Let our knowledge and professional stature take over for you and stand firm on your behalf.

Contact us to schedule a Tax Attorney consultation. Evening and weekend hours are available by appointment. As this tax law firm represents individuals and business and is always pleased to meet with you, please call us at 800-946-8122

Ten Things to Know BEFORE Your Tax Audit

Being hit with a tax audit can be intimidating, nerve-racking, and even downright scary – but they don't have to be. When it comes to audits, knowledge is your best asset. Here are some tips everyone should know to avoid an audit, and to be prepared when one strikes:

1. **Know Your Red Flags.** The IRS is a huge organization, and it relies on prioritizing to keep running smoothly. This means that, rather than poring over every case with a fine tooth comb, tax examiners tend to focus harder on "high-risk" cases. Do you keep offshore accounts and trust funds? Did you file multiple tax exemptions? Have you flat-out not filed a tax return? Then be prepared, because an audit is more likely to come your way.'
2. **Know Your Company.** When it comes to the IRS, the best offense is a good defense. Are you up on financial transactions at your company? Have you analyzed expense reports for legitimacy? Are you aware of which business expense deductions are available to you and your company? Do you have third party options to validate any expenses not covered by a receipt? These are all things to think about –

and things you should know about before the IRS does.

3. **Know Your Mathematics.** Even the most experienced financier can make a small subtraction slip-up, but few things send up a red flag faster than a major miscalculation. Whether you have your taxes done or do them yourself, get a second opinion from a fresh pair of eyes. A proper report now will save you a lot of trouble later on.
4. **Know Your Means.** It's as simple as it sounds. Wherever living large and tax return red flags combine, a tax audit isn't far behind. The IRS can check your yearly income against your living expenses, and use your testimony against you, so make sure you can prove that you've been living within your means.
5. **Know Your Deductions.** Deductions are the most precarious part of filing a tax return. Left open to relative subjectivity, frivolous (or downright fraudulent) deductions are the most common method for attempting to cheat the system. Even if your deductions are 100% legitimate, unusually high or extensive items might be enough to raise a red flag for the IRS. Your best line of defense is to document everything: keep your receipts, show your calculation work, and make sure you file the correct forms.
6. **Know Your Position.** Taxes can be especially tricky for independent contractors: not only are there extra forms to deal with, but tax auditors may still reclassify you as an employee of a company and attempt to collect unreported payroll taxes (plus penalties and interest). Through effective use of forms and the 20-Factor Test, however, these audit claims can be properly defeated.
7. **Know What NOT to Say.** Think you got one over on the IRS with your deft maneuvering? You would do well to keep that information to yourself. The IRS rewards informants with a share of the extra fees (and fines, and

penalties, and interest) collected, so don't be surprised if you find yourself hit with an audit. If that interview does come, don't expect glossing over answers over with quick cute excuses to work in your favor toward a shorter audit – those answers could be used against you later as criminal intent toward tax evasion. Choose your words wisely.

8. **Know Your Rights.** So, you were chosen for an audit? You will be interviewed, and you will be scrutinized. That said, you are not entirely powerless. According to Section 3503 of the IRS Restructuring and Reform Act of 1998 (RRA 98), you have a right to know why you are being audited. You also have a right to record your interview, ask to transfer your case to another area, and even file a misconduct report if your auditor is acting out of line.
9. **Know Your Opponent.** A common mistake among individuals facing an audit is to underestimate the intelligence of their auditor. People like to rib them with names like "bean counter," but rest assured, this is your auditor's career. It took years of intense schooling and experience in accounting and auditing to get to this point, and along with that sort of practice comes an innate savvy for getting that job done. They've dealt with every type of person under the sun. If you haven't, or just aren't sure, your best bet is to get a professional on your side: the tax attorney.
10. **Know Your Tax Attorney.** Doing taxes can be a frustrating and confusing process, and even reading these tips may leave you with more questions than answers. That's all right – that's what tax attorneys are for. A good tax attorney will prepare you on a personal level for every possible aspect of a tax audit, and will aggressively fight on your behalf. A good tax attorney knows how to speak an auditor's language, from the right answers to the right time to stay silent. Whether you're trying to navigate a tough audit or simply avoid one in the

first place, a good tax attorney can guide

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Income Tax Audit

Worried about a tax audit? Now more than ever there is cause for concern. In large part because of the long recession, the Obama administration is in huge need of tax dollars to keep the government going. Thus, more Americans than ever may be subject to unwanted attention from the Internal Revenue Service this season as the government pumps billions of dollars into tax collection.

My name is John Ellsworth and I am a tax lawyer who specializes in the defense of personal and business tax audits. Every day I am on the firing line of the IRS and the taxpayer, helping people just like you prove their returns are accurate and truthful. Sometimes they are not so truthful and I help those people repair the damage they might have done too.

Here are some tax audit flags I have noticed in 2010 and the second half of 2009:

More than 1.4 million Americans were audited last year, the most in a decade. Even more audits are expected as the fledgling administration plans to spend \$8.2 billion in tax enforcement initiatives in 2011, a nearly 10% increase over last year.

Being meticulous with your tax return may seem obvious, but many people aren't careful enough and I see that in my tax audit defense practice over and over. And with the IRS seeking to collect every penny it can this year, you could end up paying for even the smallest mistakes.

While the IRS doesn't reveal its secret DIF formula for flagging returns, here are some tips to avoid popping up on the auditor's radar.

Self-employed? Prove it's legitimate

With a record-high jobless rate, many Americans have turned to self-employment, making the IRS increasingly skeptical of the legitimacy of home-based businesses.

More people are trying to turn hobbies into businesses in order to bring in a little extra money, but this won't fool the IRS. In order to prove that your business is legit, you need to keep consistent and accurate records of income and expenses, maintain a separate bank account for the business, register the business with the proper authorities and hire an attorney and a good tax accountant.

An activity is considered a for-profit business if the gross income for any three of the most recent five years exceeds the deductions taken for the activity. If the IRS determines that a business is not engaged in for-profit, you won't be allowed to take deductions of more than the gross income from that activity.

High expenses of self-employed individuals will also provoke suspicion from the auditor, who will look closely at travel, entertainment and automobile expenses relative to an individual's income.

Overseas bank accounts? 'Fess up

As the government cracks down on offshore bank accounts, deposits abroad are likely to catch an auditor's eye this year.

While the IRS will spend most of its resources going after people with the largest deposits, all taxpayers with foreign accounts should take precaution and comply with the rules in order to avoid huge penalties.

Foreign bank accounts have been all over the press lately — it's definitely a big thing this year.

People need to make sure they indicate on their tax returns if they have one, and make sure they include any interest income from that bank account on their returns. If you're required to file a U.S. tax return, you must

report foreign bank deposits that exceed \$10,000 at any point during the year on form 90-22.1.

Selling stocks? Careful with your cost basis

Remember those stocks your grandmother gave you in 1987? If you sell them, you will need to track down the original purchase price, no matter how far back the transaction was. Reporting an unreasonable stock value on your return can easily trigger a double-take from the IRS.

Knowing the date a stock was purchased is crucial since it determines the cost basis — the cost of the original purchase including commissions and adjustments like stock splits — and ultimately tells the IRS how much profit you made when you sold it.

A lot of people, when they sell a stock, particularly if they aren't regular traders or active investors, won't know the basis of the stock. Maybe it was received as a gift or they bought it a long time ago, so they'll make it up.

But think twice before guessing the original value. It's important to determine the actual purchase price, whether it means verifying with your broker, hiring an accountant or calling up your Aunt Sally.

Making a donation? Get a receipt

Declaring unusually large charitable donations as deductions on your tax returns is another danger zone — especially if the amount donated is high relative to your income.

The IRS seems to be stepping up its investigations of both cash and non-cash donations this year.

But determining the value of non-cash items such as artwork, cars, clothing and furniture can be difficult. For smaller items, you'll need to assess the value yourself, usually based on resale value at the time of donation. For most items valued over \$500, the IRS will require a qualified appraisal.

Make sure you have the receipt when taking a charitable deduction, and for any donation of more than \$250, be sure to get a letter from that charitable organization.

High earner? Hire a Pro

Because high earners have more income and more deductions on their returns, such as businesses, second homes, stock transactions and charitable contributions, the chances of miscalculation or inflation are much greater. The more money a person makes, the more valuable those errors becomes to the IRS.

The IRS looks more closely at high earners because their financial lives are more complicated than those of lower earners. And such complications can often lead to mistakes — some intentional — that the IRS will take as an invitation to dig deeper.

Here at Ellsworth Law Group we estimate that those making more than \$200,000 a year are 50% more likely to be audited than those making less.

And those chances increase with income. The IRS reported that audits of individuals earning more than \$200,000 jumped 11% in 2009, and audits of those making more than \$1 million surged nearly 30% last year from 2008.

Wealthy taxpayers should triple-check everything and be mindful of careless omissions and inaccurate numbers, especially when reporting items that the IRS receives copies of as well, such as dividends. Hiring an accountant can be a smart move. The more complicated a tax return, the more cost-effective hiring professional help becomes.

How do I win audits for my clients? Your entire tax audit case is handled by me-this is my secret.

I handle every aspect of a tax audit myself. Every phone call is made by me; every letter is drafted by me; every meeting or dealing with the government is done only by me. I believe there is no such thing as a routine tax audit, or call or letter to the government. They all mean something and nothing should be overlooked or taken for granted. There are no salesmen or assistants working on your confidential tax

audit case at any time. Of course I also rely on the valuable assistance of a select group of CPA's and professionals to help me develop your IRS audit case. But when it's all said and done, it is my opinion and my expertise that will be presented to the IRS and Tax Court judges. Please compare this level of tax audit service and applied expertise to that offered by others. You will be amazed at what a difference this extra protection and care can make in the outcome of your tax audit. **Our typical clients are individuals, small businesses and professional people, and small-cap corporations** who require the assistance of outside counsel at some time during their tax audit. They are looking for serious tax audit help and they soon find John Ellsworth has their IRS audit answers.

I am a tax audit lawyer with 35 years of experience. My tax audit law practice extends across the United States. Each year I take tax audit cases from all states and overseas. I also practice defense of criminal tax cases. I try cases in U.S. Tax Court and U.S. District Court. All comments and postings are welcome and I will do what I can to respond in a timely way.

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Why Did I Get Selected For Audit?

So, you're the subject of an IRS tax audit and you want to know why. How did this tax audit happen? Well, here are some insights into the why and how of IRS tax audits. Please read on.

Selection of Returns for Examination.

After the initial review and correction process of tax returns has been completed, returns are classified for tax audit. Certain individual income tax returns with potentially unallowable

items are forwarded to the examination divisions of the service centers for correction by correspondence tax audit. Otherwise, returns with the highest examination potential are sent to the examination divisions on the basis of workload capacities. Returns sent to the examination divisions may be examined by correspondence tax audit, in office tax audit, or in field tax audits generally conducted by IRS agents.

A taxpayer's chance of being audited is not affected by either the date the return was filed or whether the taxpayer had called the IRS tax line.

Discriminant Function (DIF) System

The IRS uses computers to identify returns that warrant tax audit under what it calls the Discriminant Function (DIF) System. Under this system, each return is scored by means of mathematical formulas. The IRS has found that the tax audit potential of a return increases with the DIF score. An engineer friend of mine called upon 500 clients to submit their tax audit returns to him so that he could try to discover how the DIF score worked in their tax audit cases. He not only discovered how it worked, he also made this information available. It is an interesting and mathematically challenging study.

The IRS formerly employed the Taxpayer Compliance Measurement Program (TCMP), which was a random tax audit selection system developed by the agency to measure and evaluate taxpayer compliance characteristics. Information and figures obtained from the TCMP were used to determine the DIF. However, the TCMP has not been used by the IRS since 1987, and it has now been replaced by the National Research Program (NRP).

National Research Program (NRP)

The NRP is a tax audit study designed to accurately measure tax compliance while minimizing the need to contact taxpayers during the process. It is intended to be less intrusive, and to reduce tax audits of taxpayers who filed an accurate return. Moreover, it is designed to more effectively detect tax cheating than prior systems. While the IRS conducts over 700,000 regular tax audits annually, the NRP will extract data from a stratified sample of about 50,000 regular tax audits.

The NRP focuses on measuring three critical areas of tax administration: filing compliance, payment compliance, and reporting compliance. The first area to be addressed will be reporting compliance, to be followed by the other two areas.

Instead of the former practice of engaging in a "line-by-line" tax audit, the IRS will seek to reduce the intrusiveness of the tax audit by using more information that it has already collected. Those selected for tax audit under the NRP will be asked questions about only a limited portion of their tax returns. Some taxpayers will not be contacted at all, while others will participate by mail.

The number of face-to-face tax audits under the NRP will be reduced to a far smaller number than under previous studies. Moreover, this portion of an NRP tax audit will be comparable to a regular IRS tax audit, whereas under earlier programs, the examination usually took twice as long as a regular tax audit.

The NRP is expected to produce a number of changes, including redesigned forms, improved communications, suggested tax law changes, and enforcement focused on non-compliant taxpayers.

Starting in September 2002, the NRP began working on fewer than 50,000 IRS audits out of 132 million individual returns filed. There are four categories of IRS audits included in this, ranging from no contact with the taxpayer to a scaled-back tax audit that requires less taxpayer substantiation than previous studies.

The IRS intends to expand the NRP to cover corporate income tax, as well as employment and excise taxes.

Comment:

Analysts note that the IRS continues to explore new and improved means of ensuring compliance among taxpayers. An IRS Research Conference is held annually, with papers and slides being available on the IRS website. Some proposals include increasingly complex and detailed statistical models designed to improve the accuracy and completeness of the data obtained from the NRP and other such programs. One study notes that most current studies

start with an estimation sample from which returns to be audited are selected; the problem is that the sample group selected for IRS audit will generally have a higher rate of noncompliance than the general population. For example, the IRS will compile a list of taxpayers to be audited, but will then elect not to tax audit those returns which are supported by receipts, while concentrating on auditing those returns without attached receipts. This distortion thus causes the noncompliance rate among the group of tax audit returns to exceed that which would be found if all the returns in a truly random group were to be audited.

Other grounds for selection of return

In addition to the programs discussed above (DIF and NRP), there are a number of specific circumstances which may increase the probability of a return being selected for examination. A return may be selected for examination based on information received from third-party documentation, such as Forms 1099 and W-2, that does not match the information reported on the return. A return may also be selected in order to address both the questionable treatment of an item and to study the behavior of similar taxpayers (a market segment) in handling a particular tax issue.

A return may be selected due to information received from other sources on potential noncompliance with the tax laws or inaccurate filing. This information can come from various sources, including the media, public records, or informants (did someone say ex-spouse?) The information is evaluated for reliability and accuracy before it is used as the basis of an tax audit, examination or investigation.

100% AUDIT EXAMINATION

Low IRS audit rates do not mean that your tax return will avoid IRS scrutiny. The IRS officially audited only **1.67% of all personal tax returns** in 1997, the most recent year for which numbers are available.

But in reality, on most tax returns **100% of the income and most of the deductions are checked by IRS** computers through the IRS's information return matching program.

IRS computers now check the numbers reported for 29 different kinds of income (that includes income from all 1099 forms), and your deductions of state taxes, real estate taxes, and mortgage interest. IRS computers also check your dependency exemptions, both SSA numbers and their matching names. They also check to see whether the dependent was claimed by someone else or filed a return themselves.

To the extent that your income and deductions fall into these categories, 100% of them are examined whether you are audited or not.

Unfortunately, you can never be sure what will trigger an audit.

There are only a few items the IRS has specifically said increase the chance for an audit.

You may not be an outright tax cheat, but your return may contain a couple of those red flags. Here are five to watch out for.

Itemized deductions

The IRS is more likely to scrutinize returns with itemized deductions than those that take only the standard deduction.

The agency keeps a range of "normal" deductions for each tax bracket based on the average claim taken. So if you are earning \$45,000 a year and deduct half of that for mortgage interest -- but the average for your tax bracket is around \$5,000 -- the taxman may come calling. \$7,000 on business meals? If the average for your tax bracket is only \$1,500, watch out.

If you can legitimately claim those deductions, by all means take them. But hold on to your receipts.

Hobby losses

If you are holding down a full-time job but are running a side business, you may be targeted for an audit if your pet project posts a loss

year after year. Schedule C is used to report income or loss from sole proprietorships, but some businesses are little more than a cover-up for a loss-producing hobby.

The code does not permit you to deduct hobby losses.

The gentleman farmer that doesn't intend to turn a profit, is an example of a hobbyist. And the IRS agrees.

Even if that hobby generates a few bucks, it may be in your best interest to stay far, far away from Schedule C because the IRS may not be satisfied with a modest profit.

Schedule C filers are among the highest audit risk group so be prepared to justify your claims. I advise clients to draft a business plan and to enlist expert help, if needed. Also, carefully record your business expenses and keep them separate from your personal expenditures. The goal is to present yourself as a professional, not an amateur.

Home office deductions

If your place of business is also your residence, be careful with that home office deduction.

The room has to be used exclusively for business purposes. You cannot just have a desk in your living room where you have a television set.

Have a tape measure handy because the IRS limits that deduction to the actual space your office occupies. So if your office takes up 200 square feet in a 1,000 square foot apartment, then only 20 percent (200 divided by 1,000) of your total housing expenses are eligible for that deduction. Your total housing expenses includes any rent or mortgage, insurance, utilities, and maintenance associated with the residence.

A home office deduction cannot result in a loss. Example: if your business income totals \$6,000, but you have \$5,000 in business expenses and \$1,500 in home office costs, that last \$500 cannot be deducted from your taxes.

You can, however, carry that deduction over to the next year provided you have sufficient income.

Casualty losses

The rules regarding casualty losses are very specific. Such losses must exceed any insurance reimbursement by \$100. Even then, that first \$100 is not deductible.

Next, your loss must be attributed to a sudden event such as theft, fire, or hurricane damage. Losses that result from a gradual wearing down of conditions -- erosion for example -- do not qualify.

And finally, the total loss must exceed 10 percent of an individual taxpayer's adjusted gross income (AGI) after any insurance payments have been received. That percent isn't deductible either and you cannot claim the loss until you've been reimbursed by your insurer.

Example: if your home was damaged by lightning and your loss, after any insurance payments have been received, totaled \$20,000 the first \$100 is not deductible. Now if your AGI is \$70,000 then the first 10 percent, or \$7,000, of the remaining \$19,900 isn't deductible either. That leaves you with only a \$12,900 casualty loss deduction.

Also note that your deduction is limited to the actual cost of the item, not its value.

High income

Not only are your taxes higher, you are chances of being audited are 1 in 20 if you earn \$100,000 or more.

Higher income earners are more likely to be audited because there is more tax money at stake. The IRS is a business, they have employees and they do not have time to let them audit people if they are only going to earn \$2 worth of tax."

Earning less money really isn't an option, but high earners should be aware that the government is eyeing their returns very carefully. So any temptation to tack on another \$1,000 to a charitable deduction shouldn't be indulged.

Luckily, none of that applies to me...

You may not fall into any of those categories, but a few careless errors may cause the IRS to take a second look at your returns.

Using tax preparation software could alleviate some of the drudgery and cut down on simple mathematical errors. If your math is off, the IRS will likely re-compute your taxes.

If it is a relatively small thing, like you transpose two numbers, that is less likely to trigger an audit than if you omit a large portion of your income.

Also, be sure to sign and date your return once it is completed. This isn't an audit red flag either, but you don't want to lure the IRS into looking over your return for more than is necessary. ■

LITTLE-KNOWN AUDIT FACTS--WHAT THE IRS DOESN'T WANT YOU TO KNOW!

The odds of a "real" audit are much lower than the IRS would have you believe. By "real" I mean an audit at IRS headquarters during which you sit across the desk from a revenue agent.

Official government statistics show an IRS audit rate of 1.6%. But that figure includes what the IRS calls correspondence audits, which make up more than half of all audits done in a given year. Correspondence audits are handled completely by mail. The IRS simply asks you to mail in proof for an item they have questioned.

IRS audit technology is in a shambles. Recently, IRS officials revealed that they had wasted \$4 billion trying to update their data processing systems. Despite this outlay, the IRS's computer software is woefully outmoded. This can be a blessing for taxpayers who are audited. While the examining agent can call up your current return on the computer screen, he/she won't get a clue from the computer about what you filed in previous years. The IRS can retrieve--by hand--an original return you filed in the past, but it will take at least 60 days to dig it up and maybe much longer. If an IRS auditor asks you for a copy of an old return and you can't easily locate it, let the IRS

find the original. Your audit can proceed while they look--it may even be completed before the auditor gets a copy of the old return.

Important technological exception: The IRS's document matching program is first-rate. If you fail to include even the smallest amount of income reported by payers to the IRS, you'll get a computer-generated notice. Be diligent about reporting all of your income. Report it accurately, in the right place on your return, with the correct name of the payer, etc.

The IRS depends on you for information it needs to review your return. The IRS has no choice but to let you estimate figures for which you haven't kept records. Such as when the IRS needs to know the tax cost (basis) of property to verify your calculation of capital gains, real estate depreciation, oil and gas depletion, loss carry forwards, etc. If you haven't kept paper proof, make estimates of your tax cost based on your best efforts to put the facts together. Don't fabricate numbers, however. Be sure you have a rationale to justify your estimates if you're ever questioned. At ELLSWORTH LAW GROUP we have a specific and well-tested system for documenting deductions that can't be otherwise proven. When you enlist our services during an audit, we can help in a big way in this area.

Low-skilled IRS personnel are in charge of correspondence audits. Typically, these people are clerks who have received only rudimentary training from the IRS. They make mistakes. You should know that you can beat the IRS on an issue provoked by a correspondence audit if the facts are on your side and you can prove them. Never automatically pay a bill produced by a correspondence audit. Check the "auditor's" facts and figures.

Tax auditors handling "office audits" (those generally done in an IRS office) work from "kits" provided by the IRS. The auditors who perform these audits tend to be savvier than those working on correspondence audits, but they're certainly not "tax professionals." Typically, they work from a manual covering one area of the tax law (such as charitable contributions or medical expenses) and they go by the book. Here again, they often make mistakes and you can sustain your deductions if the facts are on your side.

Beware of dirty tricks: The Internal Revenue Manual actually suggests that auditors pause during office audits, encouraging taxpayers to fill in the silence with - they hope - unintended disclosures. Don't fall for this scripted silent treatment. Keep your mouth shut. Never ever volunteer information to a tax auditor, no matter how innocuous it seems.

Warning: IRS revenue (field) agents are, in fact, genuine tax professionals. They're the ones who come to your home or business to do an audit. Many revenue agents have had extensive experience in private industry prior to joining the IRS. If you're subject to a field audit, be sure to hire your own tax professional to represent you.

KEEPING PROPER RECORDS

W-2 forms, bank statements, paid bills, and all other records supporting the items appearing on your tax return should be retained for at least 4 years (preferably six), as the Internal Revenue Service or the State revenue service may request their reproduction in the event of an audit by them, of your return.

The major burden of proving the facts reported on your Income Tax Returns rests on you. We know the rules and follow them carefully, and if you can back-up your deductions with the proper proof, then there is nothing to fear from an audit. The IRS reports that about 5% of all audits result in refunds! The vast majority of taxpayers overpay their taxes.

Some returns are selected at random for auditing and in case you are contacted, they are normally only requesting verification of some items on your return. Failure to respond is considered an admission of guilt and opens your return (and previous returns) to further investigation.

In any case, contact us before signing any waivers or agreements of any type. Even though a deficiency should be proposed by the examining revenue agent, you have extensive rights of appeal. Many areas of tax practice are controversial and a lot of transactions fall into these areas. You are not required to pay any more tax than the law requires, but it is often necessary to argue a little to establish what amount it is that the law may reasonably be construed as to requiring.

DISAPPEAR FROM THE IRS!

It is simple and easy to avoid all trouble with the IRS. If you're anything like the average taxpayer, you live in fear of an IRS audit. Not because you have done anything wrong, just because we all know how the government operates. Most of us know someone whom they have audited, or heard horror stories about audits. The IRS has their computers set up to spot returns that fall outside the "normal" range of deductions. Once certain entries come up outside this range the return gets a "red flag," and it gets kicked out to an agent to review. Other than that, the IRS runs random checks every few years just to see what they turn up.

It is absolutely possible to "disappear" from the IRS.

You know what they say about it being best to go easy on deductions? Nonsense. The flags that trip the IRS computers look for inconsistencies with the average return, so too few deductions can be just as bad as too many.

So many people, sometimes acting on the advice of misinformed CPAs or accountants, overpay their taxes, believing this will save them from an audit.

Big mistake.

You see, the IRS wants the easy money. They do not want to send out auditors to people who are going to fight them over every dime, and hammer out every deduction. An auditor's job performance is judged by how much they collect from taxpayers. So when push comes to shove, they want the easy prey, where they know they can squeeze out more money. So a simple, conservative return may get even more attention than an aggressive one.

Over the years, I have discovered that there are ways of "green flagging" your tax return to sail right through the IRS computers. Not only that -- you're taking every deduction you can while you're doing it!

To make yourself invisible to the IRS you will need to know how the IRS operates, what their

computers are looking for, and how to avoid the most common mistakes they catch.

You can write off your **Home Office** and get away with it--if you use the tools you're already given by the IRS. The IRS won a 1993 Supreme Court victory against home business deductions, so they're being more aggressive with these. But all you have to do is fill out one little form, Form 8829, attach it to your return, and it will sail past the computers. (Make sure to attach a description of your business activities, and summarize the time spent and activities performed in your home office, and in other locations.)

Bullet proof your claims for business vehicle use. Keep a good mileage log of your business travel and deductions. A good log is hard for an auditor to dispute.

Breeze through any non-cash charitable deductions. If they total more than \$500, just file Form 8283. You will need to accurately describe the property. Also, if your deduction goes over \$5,000, include an independent appraisal of the property with Form 8283.

Have you caught the two prime keys to becoming invisible to the IRS yet?

Keeping good records and a knowledgeable tax preparer!

MORE THAN YOU MIGHT WANT TO KNOW ABOUT AUDIT PROCEDURE

There's no reason to be troubled by the prospect of an audit if you know your rights and know the steps to guide the audit to a satisfactory conclusion.

KINDS OF AUDITS

The audit process begins when you receive a notice from the IRS informing you that your tax return has been selected for an audit. There are two kinds of personal audits;

Correspondence audits are the simplest. In most cases, they involve only one or a few items and can be handled completely by mail.

Examples: The IRS asks you to send a copy of the receipt you obtained from a charity for a charitable contribution, or a copy of a brokerage account statement that verifies a capital gain or loss you reported on your return.

Office audits are what most people think of when they imagine "being audited." You are asked to come to the IRS auditor's office to answer questions about your return and to bring any records needed to document it.

FIRST STEPS

No matter what kind of audit you face, the audit notice should be accompanied by a copy of IRS Publication No. 1, *Your Rights as a Taxpayer*, which explains the audit and audit appeal processes. Read it carefully. You can also receive a free copy of Publication 1 by calling the IRS (800TAX-FORM).

Examine the audit notice carefully. Do not assume that the information on it is correct, the IRS has been known to make mistakes.

Things to check:

Has the notice been sent to the correct person? A divorce may result in an audit notice being sent to the wrong spouse, or the notice may be for someone else with your name.

Has the statute of limitations expired? In most cases the IRS must begin an audit within three years of...

...the due date of your return for the year being examined, or

...the Date on which you actually mailed your return for the year or

...whichever is later.

Is the information on the audit notice correct? Sometimes returns are flagged for an audit due to simple errors that are easily corrected, such as matching errors between amounts reported on 1098s and amounts shown on the return.

By quickly correcting such errors, you may speedily resolve the audit and keep it from spreading into other areas.

Have you been audited for the same reason within the last two years? If so, and if the prior audit resulted in no change on your return, inform the IRS and it probably will cancel the new audit. It is IRS policy to avoid repetitive audits unless there is a particular reason for the second examination.

MORE THAN YOU MIGHT WANT TO KNOW ABOUT AUDIT PROCEDURE

Answering THE NOTICE

The IRS audit notice will suggest a time and location for the audit to take place. However, you have the right to ask the IRS to reschedule the audit to accommodate you.

A postponement may be sought to get more time to pull together records or resolve a scheduling conflict. The IRS usually is reasonable about granting postponements as long as it does not suspect the taxpayer of engaging in a strategy of delay.

A change of location for an office audit can be requested if you have moved since filing your return and now live far away from the IRS office that sent the audit notice. The audit may be transferred to an IRS office nearer you.

Representation: You have the right to be represented by a tax professional when dealing with the IRS during an audit. You don't have to attend the audit if you don't want to. The IRS cannot compel you to appear in person unless it has a particular reason for meeting with you, which happens in very few cases.

Having a professional handle the audit for you can be a very good idea that is well worth the expense.

- You'll avoid the fear and anxiety that most taxpayers experience when dealing with an auditor and emotions

that could lead you to commit costly mistakes.

- A professional will know much more than you about expediting the audit to a satisfactory conclusion.
- Having a representative appear for you can help contain an audit. If an auditor turns to you and asks an unexpected question, you'll probably feel the need to give some sort of spur-of-the-moment response, and in the process perhaps tip off the auditor about other items on your return to examine. But if the auditor asks an unexpected question of your representative, he/she can give an answer such as, *I don't know I'll have to check with my client.*

Auditors are under pressure to dispose of their case inventories in a timely manner, so they are less likely to engage in such time-consuming "fishing expeditions" when dealing with a professional representative.

PRESENTING EVIDENCE

The audit notice also will specify the items on your return that are being questioned and the records you should bring to support them.

Bring to the audit only records that were specifically requested. This keeps unrelated items that might be questioned out of the auditor's sight

If the auditor asks for any further records, have him request them in writing. This eliminates any misunderstandings and creates a paper trail that may be valuable in future proceedings.

Organize records thoroughly before presenting them to the IRS. Auditors direct their efforts to the areas that seem most likely to be productive, and sloppy record keeping may be taken by an auditor as a sign that a closer examination of the books could be rewarding.

In contrast, comprehensive, organized records may give the auditor the impression that little is out of order and could bring the audit to an early close.

MORE THAN YOU MIGHT WANT TO KNOW ABOUT AUDIT PROCEDURE - II

CONDUCTING THE AUDIT

If you attend the audit personally, it's important to deal with the auditor in a professional, businesslike manner.

The IRS Manual prohibits a single auditor from conducting two audits of the same taxpayer within a three-year period (provided the earlier audit has been closed). So if your return is assigned to an auditor with whom you have dealt with in the past three years, and you wish to have a different auditor, inform the auditor's group manager.

Avoid being antagonistic. Remember the auditor is just doing a job. Also a hostile attitude on your part may give the auditor the impression that you have something to hide and may lead to closer scrutiny of your case.

Nevertheless, it is possible that during the course of an audit, you will conclude the auditor doesn't understand your position or is in some manner treating you unfairly. In that case, you have the right to meet with the auditor's supervisor to discuss the problem.

Request such a meeting in a professional manner. You'll have continuing dealings with the auditor, so you still don't want to antagonize him.

If your problem involves a technical issue, it's possible to request that the auditor seek technical advice in the form of a ruling on the matter issued by the IRS National Office in Washington, D.C. You can make this request to the auditor either verbally or in writing.

APPEALING

At the end of the audit process, you will receive a report by mail indicating what changes, if any, have been made to your tax bill. You then will have 30 days to appeal the audit results by taking your case to the IRS Appeals Division.

Opportunity: The Appeals Division provides you the first real opportunity to negotiate your case.

IRS auditors are supposed to look at every item on your return as simply being allowable or not allowable according to the tax law.

In contrast, IRS Appeals Officers have the authority to compromise on issues after considering the weight of the evidence, the "hazards of litigation"--the cost of going to court and the risk that the IRS might lose - and the importance that the case has to the IRS as a precedent. In fact, the great majority of cases that reach the Appeals Division are settled there and never go to court.

Important: If you haven't been advised by a professional before appealing your audit, consult someone now to ensure that your case is presented to the Appeals Division in the most persuasive manner and to be able to evaluate accurately the attractiveness of any potential settlement

If you fail to reach a settlement with the Appeals Division, your last remedy will be the more costly and time-consuming step of going to court, so you'll want the best advice available.



5 Ways to Avoid an IRS Tax Audit

Whether you're facing an audit or simply want to avoid one, here are steps to take to deflect attention or get you prepared.

Why me? You just got the invitation to a "party" that you hoped you'd never attend -- an IRS audit.

How did this happen and how can you prevent it from happening again? We'll get to the how

when we answer how to minimize the chances of an audit and how to survive one.

Rule 1: Check your arithmetic

Few audits are generated by mathematical mistakes alone. The Internal Revenue Service computers automatically correct both mathematical errors and mistakes where you have claimed deductions that exceed limits set by the tax code itself, such as the 7.5% adjusted gross income limitation on medical deductions. However, too many of these kinds of errors indicate a sloppy return, and that that may lead to a full audit.

While it may seem obvious, let's not give the IRS any additional reasons to look at your return.

But how do you get picked?

An IRS computer program compares your deductions to others in your income bracket and weighs the differences. This secret IRS formula, called the DIF Score, is used to select returns with the highest probability of generating additional audit revenue.

For example, a taxpayer with a \$50,000 salary would rarely have \$10,000 in charitable contributions. This doesn't mean that, if you have only \$50,000 in income and actually have \$10,000 in charitable contributions, you shouldn't claim those deductions. It only means that if that is the case, be prepared to prove those deductions. The DIF formula considers not only your income and deductions, but where you live, the size of your family and your profession as well. Rarely will a family of five living in the Hamptons have an income of \$30,000 or less. It may happen, but if it does, the IRS will want to know how. This leads to . . .

Rule 2: Arrange your finances so they don't stand out

If you think you may be audited, see if your situation is likely to attract the tax man's attention. Here are groups that often do invite inquiries:

The self-employed If you are self-employed, you have more opportunity to either "hide" your income or "create" deductions by

converting personal expenses into business expenses. If so, be prepared to substantiate your expenditures as deductible expenses. The IRS is aware of the myriad "business vehicles" that go away to college every September, and the probability of your being audited is enhanced.

The audit rate for 2005 was 0.92%, up from 0.77% in 2004 and 0.65% in 2003.

Those who get their income in cash. The IRS has specific audit programs aimed at specific professions and occupations. Because they receive much of their income in cash, people who work in the gaming industry, waiters and even doctors are prime audit targets. The more cash you receive and the higher your income potential, the more likely the IRS is to find additional tax dollars by reviewing your return.

There are a number of kinds of areas of potential abuse that attracts the IRS. In recent years, the IRS has been targeting these areas for audit:

- Offshore credit card users
- High risk, high income taxpayers
- Investors in abusive schemes and promotions
- High income non-filers
- Unreported income

Rule 3: Substantiate. Substantiate. Substantiate.

In the audit itself, the IRS will focus on those items where taxpayers have historically failed to keep the required substantiation. Traditionally, auto, travel, meals and entertainment have been the areas most audited. To deduct auto expenses, you must establish the percentage of business use as well as the actual expenses incurred. I ask my clients to keep a mini-cassette recorder in their cars to record the business mileage and purpose. Kept contemporaneously, it is acceptable as sufficient substantiation of business use. Alternatively, a written diary of miles used for business would also be accepted.

You must have a receipt for all expenditures of \$75 or more for meals and entertainment.

The rule is simple: no receipt, no deduction. If the expense is less than \$75, a diary notation is sufficient. However, both the receipt and the diary notation must have all of the following information:

- The amount paid
- The name and location of the restaurant or entertainment facility
- The person you entertained
- That person's business relationship with you
- The business discussion related to the entertainment

Unless you talk business, before, during or after the meal, your deduction won't be allowed. Remember, with the IRS, paper rules! With any and all expenses, deductions will be more easily allowed if you have a piece of paper to back them up.

Here's another piece of advice: Don't come in with a carton of miscellaneous receipts. The more "organized" your receipts and the more paper you produce, the easier it is for an IRS agent to conclude that you are organized, have full substantiation and owe no additional taxes.

One more point about how you're selected for an audit. The IRS computer selects many returns for audit on a random basis. Your income, deductions or where you live are irrelevant. Your number just came up -- you won the audit lottery. A student making \$3,000 a year is just as likely to be selected as an accountant making \$300,000. You just got "lucky."

The IRS can audit you for three years after you file your return. In reality, however, most returns are audited within 18 months of filing. This gives the IRS time to do the review and request the appropriate substantiation before the statute of limitations (usually the three-year period) ends. Once the statute has run out, the IRS normally cannot audit your return, and your expenses are insulated from examination. It has been claimed that the later you file, the less likely it is the IRS will pick your return to be examined. The IRS still insists that agents are not graded or evaluated on the amount of money they collect until -- surprise! -- congressional testimony reveals that policy is not the same

as practice.

Rule 4: Know when to file

I recommend that you have your return prepared early. If you have a big refund and are unconcerned with audit issues, file early and get your money back. If you have taxes due, and no penalty for underpayment, don't file until April 15. Don't ever pay a federal tax bill before it is due. It's an interest-free loan to the IRS.

On the other hand, if you are concerned about a potential audit, never file until the last minute. It won't hurt and can only decrease your chances of being selected.

Rule 5: Plan your taxes to preempt an audit

I highly recommend the use of pre-audit strategies. If, say, you have a huge medical deduction for a year that you feel would increase your chances of being audited, attach copies of your medical bills to your return.

Alternatively, if you made an unusually large charitable contribution, attach a copy of the check or receipts to your return. The IRS computer will still kick out your return, but when a real person looks at it, the reviewer will recognize that you know the rules. It may actually reduce your odds of a full audit.

IF YOU DO FIND YOURSELF THE SUBJECT OF AN AUDIT, WE CAN HELP!

Your entire tax audit case is handled by me—this is my secret.

I handle every aspect of a tax audit myself. Every phone call is made by me; every letter is drafted by me; every meeting or dealing with the government is done only by me. I believe there is no such thing as a routine tax audit, or call or letter to the government. They all mean something and nothing should be overlooked or taken for granted. There are no salesmen or assistants working on your confidential tax audit case at any time. Of course I also rely on the valuable assistance of a select group of CPA's and professionals to help me develop your IRS

audit case. But when it's all said and done, it is my opinion and my expertise that will be presented to the IRS and Tax Court judges. Please compare this level of tax audit service and applied expertise to that offered by others. You will be amazed at what a difference this extra protection and care can make in the outcome of your tax audit.

Our typical clients are individuals, small businesses and professional people, and small-cap corporations who require the assistance of outside counsel at some time during their tax audit.

I am a tax audit lawyer with 35 years of experience. My tax audit law practice extends across the United States. Each year I take tax audit cases from all states and overseas. I also practice defense of criminal tax cases. I try cases in U.S. Tax Court and U.S. District Court. All comments and postings are welcome and I will do what I can to respond in a timely way.



Call and talk to John Ellsworth of ELLSWORTH LAW GROUP today! Call and get John on the phone right now 800-946-8122. Or send us a quick email.

Attorneys Offer the Best Tax Audit Help

After receiving the audit letter from the IRS, most people are in a complete state of alarm. They do not know where to turn for help. The government has the authority to claim that you owe them a specific amount of money in back taxes whether you agree or not. They also have the ability to seize your assets and wages. Unfortunately for many people there is no possible way for them to pay off the debt. This leaves many in a total state of shock and disbelief. The first logical course of action for them to take is to call their accountant to ask for tax audit help.

Your accountant will most likely ramble off a list of things that you could do in response to the audit and explain that there is a fee for his services if he is enlisted to provide you with tax audit help. Most people can not believe that their accountant who has been doing their taxes for years can be this unsympathetic towards their predicament. People have lost their homes to the IRS. After finding that their accountant can not provide them with the help that they need, these people decide to look for tax audit help elsewhere. A highly skilled professional is required to handle the case that has a mastery of tax law and years of experience in dealing with the IRS.

The next logical next step would be to contact a lawyer that specializes in tax laws. You need to find someone who is knowledgeable, ethical, and experienced in providing the audit assistance that you desperately need. By doing some research on the subject matter you will see that the only way to protect your home, wages, and other assets is to aggressively defend your tax audit. Tax audit defense is the specialty of a certain number of tax lawyers like John Ellsworth.

You need to contact an attorney who has decades of experience in dealing with cases such as this. He or she can completely understand and listen to all of your concerns. They can also provide you with reassurance that aggressively defending your tax audit will most often mean you do not have to worry about wage garnishments or having your assets seized. You should take the time to call us for a consultation so that you can work together with us to come up with a solution that will save you from the overwhelming debt and placate the IRS.

Finding a Tax Attorney to Deal with

your Audit

The best tax audit defense unequivocally comes from an experienced tax attorney. While a CPA is knowledgeable about tax rules, a tax attorney knows how to deal with the IRS and to protect your legal rights. If you or your business has been notified of an IRS audit, you should immediately contact a tax attorney to deal with the IRS on your behalf. The IRS can be very intimidating. Many of their agents have been trained in techniques that will encourage you to give up more information than you are legally required to disclose. The average American is not equipped with the legal knowledge or the mental stamina in order to deal with audit interviews. That is why the best tax audit defense will come from an attorney that has a proven track record of success.

If you are looking for a tax audit attorney, make sure that you find one that has a lot of experience in dealing with cases that are similar to yours. You may have personal or business tax problems that may require different types of tax knowledge. There are attorneys that employ a team of knowledgeable individuals that are well versed in many tax law scenarios. By locating one of these comprehensive tax law attorneys, you will be maximizing the resources that you have in providing your defense.

Even with the best attorneys, if you are liable for back taxes, you will want to have an attorney that can guide you in selecting which type of repayment options are best for your individual circumstances. An attorney will be able to come up with a repayment plan and can have this approved by the IRS. Also, depending upon your personal circumstances, you might be advised to apply for an offer in compromise in which the IRS will settle

your debt for a reduced amount of money. And on rare occasions, your attorney may advise you to apply for absolution under the currently not collectible law. This law applies to people that have particular circumstances and the IRS will stop trying to collect the debt as long as those circumstances are applicable.

The best tax audit defense will make it so that you do not have to even personally deal with the IRS. Your attorney will attend the meetings on your behalf and provide the IRS with the requested information. They will defend your tax audit and have the knowledge to make sure that the IRS is acting within the boundaries of the law.

IRS Audit Representation

After receiving an audit notice from the IRS many people aren't sure what to do next. The IRS can threaten taxpayers with wage garnishments and excessive penalties following an unsuccessful audit, and most people know that. Many people cannot even believe their current predicament as they respond to the initial letters and phone calls from the IRS. A lot of these people really just do not know what course of action to take, so too often they do nothing, either ignoring the threatening letters or destroying them without opening them. After the government starts to garnish their wages they realize that they needed some type of IRS audit representation. The amount that the IRS can take from your check is enormous (85%). There is no way that you will be able to keep your house and your car with your wages so drastically decreased. You need to select a reputable tax attorney to represent you and your case.

You need to find the best IRS audit

representation that is available before you lose your home and your car. You should make an appointment right away. Your lawyer can reassure you that there are steps that can be taken to stop the garnishment. You can either apply to pay the government in installments or ask them for an offer in compromise which would basically reduce the amount of money that you actually owed them and you will have the opportunity to pay off the debt in one lump sum. Once either of these proceedings are approved by the IRS the garnishments will stop.

The first thing that a tax attorney can do is to sit down and figure out what the exact amount of money is that you owe the IRS. A lot of people have no idea how the IRS even came up with the figure that they claim that you owe but many people just figure that there is nothing more that they can do about it. Your attorney will arrive at a more realistic figure after taking into account all of the information that you supply them with. They typically find that you owe a significantly lower amount than the IRS has claimed. Finding experienced IRS tax representation is as easy as calling us. Don't delay, call now.

Should You Use a Lawyer or CPA?

Tax Audit Help

What kind of tax audit help should you have when you get selected for an IRS audit? Should you use your neighborhood accountant? Should you upgrade to a CPA? Or should you call in a really heavy hitter and hire a tax audit lawyer. Like all good questions legal in nature there is no one easy answer; rather the answer is, It Depends. Tax audit help usually is unnecessary in the typical correspondence

audit. Correspondence audits typically are sent out to try to clear up a small number of questions, sometimes as little as just one or two. However, there is one caveat to this: If at ANY time during any kind of audit you have serious questions about how to answer or respond, you should begin thinking seriously about getting some outside tax audit help. Moreover, if there are items on your income tax return that you know you fabricated (read "made up") you should get some serious tax audit help without delay. Find a reputable tax audit lawyer and tell him or her the truth. Why do I say hire a tax audit lawyer? Because only a lawyer has the advantage of never having to tell anyone what you have told him or her. CPAs don't have the privilege of attorney-client, neither do accountants, EAs nor other preparers. Only lawyers can keep your deepest and darkest secrets, only tax lawyers can give you the kind of tax audit help you need when you have cheated. IRS audit representation is also a specialized field; not every tax attorney can be counted on to have the necessary experience and training to defend an income tax audit. So when you're thrashing around for help, remember that you want an IRS tax lawyer who is trained in IRS audits and has successfully defended clients through IRS audit representation.

Tax Audit Representative and Your Records

Tax Audit Representative and Your Records

How does your tax audit representative avoid having you appear at the audit when someone on your behalf must explain your case to the IRS? After all, the IRS audit guidelines are very clear about this: either

you or someone acting for you must explain the books and records you turn over. So how do we keep you, the client, out of the line of fire? The quick answer: by educating your tax audit lawyer, he can talk for you. The IRS audit rules state that your accounting and record keeping system should be explained to the IRS auditor by the person most knowledgeable of your system. The IRS audit guidelines go on to say that the appropriate person may be the taxpayer, an employee of the taxpayer (the person who keeps your books), or the taxpayer's representative. As your tax audit representative we go to school on your accounting system and we go to school on how you do business, so we know as much or more about your financial affairs that even you do. Then we can legitimately appear on your behalf at the IRS tax audit and explain your financial affairs.

What will we be expected to explain on your behalf? Our explanation will include:

1. How your income (sales, 1099, W-2) and your expenditures are reported in your books and how they reconcile to your tax return.
2. We will show the IRS auditor how income, expense, and balance sheet items can be tracked through the accounting system (an accounting system includes all books of entry and all reconciliations).
3. If you have Cost of Goods Sold, we will demonstrate how to trace the flow of purchases and inventory through to Cost of Goods Sold.

Once we know your system we can speak on your behalf and so we educate ourselves about your case from front to back, top to bottom. You should expect no less from the tax audit lawyer you hire to defend your tax audit.

Why a Tax Audit Lawyer is Safest to Use

Tax Audit Lawyer Privilege Under IRC § 7525

The Internal Revenue Code uses the term tax advisor to mean certain persons who can appear before it on behalf of U.S. Taxpayers. This includes tax audit lawyers, CPAs, and Enrolled Agents (EA). The first question that must be asked by you when choosing a tax advisor is, can that tax advisor be forced to testify against you? Can your tax advisor be forced to tell the IRS or the IRS criminal investigations agents what you have told your tax advisor? This, then, is the absolute first question that must be answered before you choose your own tax advisor for your IRS audit.

Before we can understand the tax audit representative's privilege, we must first understand the attorney-client privilege. The attorney-client privilege is naturally of major importance to tax audit lawyers, but with the advent of the federal tax practitioner privilege under Internal Revenue Code Section 7525, it has also become of major importance to accountants and enrolled agents because the IRC § 7525 privilege is, to the extent it applies (extremely important), equal with the attorney-client privilege and has the same limitations. However, there is one extremely important difference: only an attorney cannot ultimately be forced to testify against you in a criminal investigation. Put another way, tax advisors such as CPAs, EAs and other representatives can ultimately, in a criminal investigation, be forced to tell the investigators what you have told them. For a look at the how's and why's of the tax audit lawyer protection you have when you

use a tax audit lawyer, please read on.

The attorney-client privilege protects clients from their tax audit lawyers being forced to testify against them. The reasoning behind this rule is that if in fact a person is going to get a fair trial, they need to be able to tell their lawyer everything about their case without fear of their words being used against them. Each state in the Union and the federal courts have their own versions of the attorney-client rule. For purposes of applying IRC § 7525, it is the federal version of the rule which is important. These are the things that must exist in order for you to be protected by the attorney-client privilege:

1. You must be or have sought to be the client of the lawyer;
2. The person to whom you told your secret facts must have been a duly admitted attorney or the employee of such an attorney;
3. The person to whom you told your secret facts must be acting as your lawyer (in other words, you have hired that lawyer and there is an agreement of representation);
4. You told your lawyer the secret facts and no third party was present at the time;
5. The purpose of telling your lawyer the secret facts was to obtain legal assistance of some sort and not for the purpose of committing a crime or other wrongdoing. *United States v. United Shoe Machine Corp.*, 89 F. Supp. 357 (D. Mass 1950).

The privilege belongs to you, the client. It is important to remember that "tax client" include persons who may not have established an attorney-client relationship but who provide confidential information to the attorney in seeking to become a client.

The information you give to the person

who prepares your taxes is generally not protected and this is for a logical reason: tax return information is intended to be disclosed to the Internal Revenue Service, so communications leading to the filing of the return fall outside the privilege. See *U.S. v. Frederick*, 182 F.3d 496 (7th Cir. 1999) (dual purpose document, for return and for litigation, denied privilege). See also *U.S. v. BDO Seidman*, 337 F.3d 802 (7th Cir. 2003).

One very important thing to always remember: the privilege does not apply to protect communications about future criminal or fraudulent conduct.

Now, under the Internal Revenue Code's version of the attorney-client privilege, IRC § 7525, the privilege of secret communication does NOT apply to any criminal matter. IRC § 7525 (a)(2). This is extremely important because this is the rule that applies to CPAs and EAs and your neighborhood tax preparer. Put another way, if the IRS is investigating you for criminal reasons, your CPA can be forced to testify against you, your Enrolled Agent (EA) can be forced to testify against you, and your tax preparer can be forced to testify against you. Only your lawyer cannot be forced to testify against you in criminal investigations such as IRS tax fraud. Knowing this, why would anyone use a CPA or EA if there is even the slightest whiff of something sinister about a tax matter?

If you might go to jail for what you've done, you better talk about it only to your lawyer.

Your Tax Audit Lawyer

IRS audit representation, meaning the help you receive from your tax lawyer or CPA, is often dictated by how deep the IRS tax audit is going to go. The IRS, when determining the depth of an examination of your books and records, will generally look at two things. First, the type of records you have. Everyone does their records differently, some by hand, some by QuickBooks, some on spreadsheets. Second, the IRS tax auditor will consider the volume of records. Mountains of records can be encountered when the taxpayer is a larger company or when the records are unorganized.

When and at what point does the IRS tax auditor decide how far to dig into your records? Usually this is not decided by the auditor until after he or she has spoken to your IRS audit representative, has interviewed you, has toured the business site (if necessary), and has determined and evaluated your internal controls.

Your IRS audit lawyer or CPA should always make clear to his or her client that none of this is etched in stone down at the IRS. Rather, the depth of the exam may be expanded or contracted as the examination progresses. Here are some examples.

1. The depth of the examination of the taxpayer's books and records can be limited to the verification of specific items. This is appropriate for Office Audit examinations of wage earners and small Schedule C's (where gross receipts have not been classified as an audit issue).
2. The depth of the examination of the taxpayer's books and records should include sampling techniques when there are voluminous records. This is an

effective use of time in situations when it is impossible to review all records.

3. Mechanical verification of particular accounts or journals should be kept to a minimum. If the degree of error is substantial, the taxpayer should be asked to make suitable verification and correction before the examination proceeds. Mechanical verification of the taxpayer's books and records should be more extensive when indications of fraud are present.

4. Taxpayers are required by law to maintain accounting records in sufficient detail to enable the preparation of an accurate tax return (IRC section 6001). Once again, the Internal Revenue Code requires you to keep sufficient records from which to prepare a tax return. The appearance of the records is not important as long as the accuracy and orderliness are not affected.

5. If the taxpayer's records are lost, destroyed, or are not available due to circumstances beyond the taxpayer's control, examiners may allow the taxpayer to present reconstructed records. Here is where affidavits can become quite important. The reconstructed records should be reviewed to determine the amounts are ordinary and necessary to the business activity.

6. When records are incomplete, nonexistent, or suspect, the Examining Officer's Activity Record (Form 9984) should document all attempts to obtain the taxpayer's records and the group manager should be informed so delays can be kept to a minimum.

The typical IRS audit representative will not audit your books and records for you. Typically your IRS audit representative will want you to gather all checks related to a category such as advertising, add the checks up, and put a register tape on top the stack of checks showing each check

below and how much they total. These stacks of checks and their register tapes are what get turned over to the IRS. This is what the IRS requires and it is what the observant IRS audit representative should also require of his or her client.

Offshore Tax Audits – Appeal and Litigation

The Bank Secrecy Act gave the Department of Treasury authority to establish recordkeeping and filing requirements for U.S. persons with financial interests in or signature authority or other authority over financial accounts maintained with financial institutions in foreign countries.

This provision of the law requires that a Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts (FBAR), be filed if the aggregate balances of such foreign accounts exceed \$10,000 at any time during the year. This form is used as part of the IRS' enforcement initiative against abusive offshore transactions and attempts by U.S. persons to avoid taxes by hiding money offshore. An accountant or practitioner must exercise due diligence to determine whether his or her client is subject to FBAR requirements, but he or she is not required to conduct a tax audit.

The FBAR covers a calendar year and must be filed no later than June 30th of the following year and includes any interest a U.S. person has in:

- Offshore bank accounts
- Offshore mutual funds
- Offshore hedge funds
- Offshore variable universal life insurance policies
- Offshore variable annuities a/k/a Swiss Annuities
- Debit card and prepaid credit card offshore accounts

The penalties for FBAR noncompliance are stiffer than the tax lien penalties ordinarily imposed for delinquent

taxes. The penalties for noncompliance which the government may impose include a fine of not more than \$500,000 and imprisonment of not more than five years, for failure to file a report, supply information, and for filing a false or fraudulent report.

The Department of Justice (DOJ) has announced that its investigation of offshore tax evasion and conjunction with the IRS will expand to include some of Europe's largest banks and their foreign affiliates such as HSBC and Credit Suisse who have been alleged to have helped U.S. clients hide up to \$30 billion from U.S. tax authorities. The IRS and DOJ investigations highlight differences in U.S. and Swiss law. Switzerland does not criminalize routine tax evasion, and bank secrecy rules in Switzerland prohibit disclosure of account holder information in these cases.

U.S. officials have already obtained previously "secret" UBS bank information reportedly revealing that some 20,000 U.S. citizens have maintained offshore accounts with UBS, and that approximately 17,000 of those accounts were never disclosed to the IRS. Estimates of willful tax evasion of \$300 million per year have been reported previously.

The Swiss Banks attempted to get protection from the Swiss Courts to prevent the compulsory release of account information but the highest Swiss Court ruled that the agreement reached in 2008 between the United States and Switzerland which was incorporated as part of the UBS plea agreement constitutes a "bilateral treaty" between the two countries. As such, the terms of the treaty are fully enforceable provided the Swiss Parliament ratifies it. The treaty could be ratified by the Swiss Parliament as early as June 2010. In anticipation of this ratification, the Swiss Federal Tax Office will continue to seek orders to ensure that UBS provides the records it promised for the 4,450 U.S. clients designated during 2009.

IRS-Revived Scrutiny of Foreign Accounts: Amnesty Offered But Uncertainty and Perils Remain

About 25 years ago, the Internal Revenue Service sought to determine the identities of accountholders at a particular “offshore” bank. An elaborate undercover “sting” was effected, with successful results. However, little in the way of compliance enforcement or deterrence ever came of the clever undercover action. The IRS recently revived its focus on offshore noncompliance, when, starting in 2000, it filed “John Doe” summons requests. See I.R.C. §7609(f). In those actions, the IRS sought to uncover the identities of U.S. taxpayers who owned or controlled funds offshore and were covertly accessing them by use of credit or debit cards. Thereafter, it summonsed credit card issuers and retail merchants and other businesses.

Once an accountholder’s identity is obtained, inquiry into the person’s affairs is undertaken by IRS civil (audit) or criminal (investigation) enforcement activity. Records of offshore accounts and related activity will be sought directly from the accountholder, by summons (subpoena in the case of a grand jury investigation) for records subject to his or her control, whether or not possessed, or by service upon the taxpayer of a court order compelling the taxpayer to execute a hypothetically phrased document directing then unknown third parties to produce records of any account(s) over which the taxpayer has signature or other authority. These compulsion techniques can be used expediently, as they do not require resort to complicated intersovereign activity, such as a tax or other international treaty.

In January 2003, the IRS announced an amnesty program for taxpayers who had engaged in offshore activity and had not fully complied with the tax laws and/or Bank Secrecy Act (BSA). Taxpayers who previously failed to report foreign account income, and/or to file foreign account forms or IRS information returns can participate. The program goes well beyond

the existing IRS “voluntary disclosure” framework, which was updated shortly before the amnesty was announced. The marked distinction of the 2003 amnesty is that it targets a precise class of violator, negates exposure to certain civil tax penalties, and can provide immunity from criminal tax prosecution. In addition, it also provides safe harbor against the foreign account reporting penalty, something no IRS voluntary disclosure practice ever addressed. However, to obtain the amnesty, certain disclosures, and strict compliance with a very specific procedure is required, beyond just filing correct amended or delinquent income tax returns.

Use of Foreign Accounts by U.S. Taxpayers

Tax avoidance and related planning are legitimate endeavors, whether or not offshore accounts or financial arrangements are utilized. Public and privately held businesses have long sought tax “haven” by using subsidiary corporations or segmenting business activity in foreign jurisdictions. Various tax law provisions have from time to time provided incentive for and distinct benefits to such arrangements. Individuals have also resorted to using foreign jurisdictions to park assets or funds, or to make investments using offshore entities or trusts. Such arrangements have been touted as effecting protection from creditors or offering favorable probate or estate planning strategies. In many instances, however, tax benefits are not only fictional, the schemes are often nothing more than promotions of blatant misconstruction of law and therefore a component part of unmistakable tax law violation.

Common offshore violators include U.S. taxpayers (citizens or aliens who have become U.S. taxpayers by virtue of

physical presence or the possession of permanent resident immigration status) who have or place funds offshore because the funds are income which has not been reported to the IRS or other jurisdiction(s) and taxed, or because the funds derive from an illegal undertaking. Offshore placement is thought to provide secrecy in keeping the source, ownership, and disposition of the funds anonymous under the law of the foreign jurisdiction.

Foreign Account Reporting

Despite the propensity for unscrupulous use, owning or having authority over a financial account in a foreign jurisdiction is not illegal per se. However, federal law mandates disclosure if one is "maintaining a relationship" with a "foreign financial agency." See 31 U.S.C. §5314. The disclosure requirements are most often triggered by a bank or securities account which is held on deposit at an institution located in a foreign jurisdiction. Both ownership and nominal interests are reportable, not just typical bank accounts. The principal disclosure requirement is met by the filing of the stand-alone annual report, Form TDF 90-22.1, "Report of Foreign Bank and Financial Accounts" referred to as an "FBAR." The threshold reporting requirement is account or accounts that exceed \$10,000, at any time during the prior year. The form must be filed each year by June 30. Regulatory jurisdiction over the FBAR is with the Department of Treasury's Financial Crimes Enforcement Network (FinCEN) under 31 C.F.R. §103.24.

The FBAR instructions dictate the particulars of how compliance with the statute is achieved. The current version (revision of July 2000) requires detailed account information for each foreign account (up to 25) in which a U.S. citizen, resident, or domestic corporation, partnership, estate, or trust has either a "financial interest" or "signature or other

authority over." The term "financial interest" includes record ownership and any holder of legal title (e.g., as nominee, agent, or attorney).

A person is considered to have a reportable interest in the foreign account of a more than 50 percent owned partnership or corporation, a trust from which the person receives more than 50 percent of such person's income, or when a person has more than a 50-percent present interest as beneficiary of a trust.⁹

"Signature authority" includes the power to control disposition of an account alone, or in conjunction with the power of one or more other persons. "Other authority" includes power of disposition that can be exercised orally or by other communication. Each owner of a joint account has an independent reporting obligation. The term "account" includes savings and securities accounts, commingled funds, checking, time, or demand deposit, or other accounts maintained with a person engaged in the "business of a financial institution."

An account is considered foreign if it is held in a country other than the U.S., Guam, Puerto Rico, or the Virgin Islands. An account held by a U.S. affiliate bank or institution is reportable, but an account maintained at a domestic branch, agency, or office of a foreign institution is not. In addition to the FBAR filing requirement, individuals having a reportable account are required to file Schedule B with their individual income tax return (Form 1040), and must answer (by check mark) two questions. The questions pertain to foreign financial accounts and trust activity as beneficiary or grantor.

We can assist with IRS tax problems, get you in compliance with your FBAR filing obligations, and minimize the chance of any criminal investigation or imposition of civil penalties.

On March 23, 2009 the IRS issued a series of memorandums that outline a new voluntary disclosure program for unreported foreign income. The program designated as the IRS Offshore Income Reporting Initiative (the "Initiative") was initially available until September 23, 2009 and then extended to October 15, 2009. Taxpayers who qualify for the Initiative will be required to follow certain filing procedures in exchange for not being subject to criminal and civil fraud penalties.

The Initiative requires that taxpayers:

- File 6 years of back tax returns reflecting unreported foreign source income;
- Calculate interest each year on unpaid tax;
- Apply a 20% accuracy-related penalty under Code Sec. 6662 or a 25% delinquency penalty under Code Sec. 6651; and
- Apply a 20% penalty based upon the highest balance of the account in the past six years (Under certain circumstances, taxpayers entering into this program may be able to qualify for a penalty at the rate of 5%).

In return, IRS has agreed to not pursue:

- Charges of criminal tax evasion; and
- Other fraud and filing penalties including IRC Sec. 6663 fraud penalties (75% of the unpaid tax) and failure to file a TD F 90-22.1, Report of Foreign Bank and Financial Accounts Report, (FBAR) (the greater of \$100,000 or 50% of the foreign account balance).

The tax attorneys at TaxpayerLawFirm.com are specialists in tax disputes with the IRS and state governmental tax agencies. A free initial telephone call to us should answer your most compelling questions about overseas audits. This no obligation telephone call is strictly confidential and protected by the attorney – client privilege and will never be disclosed. We look forward to hearing

from you and discussing your tax situation

Prevent Criminal Charges



Always remember there are many ways to prevent an IRS foreign tax audit from turning into a criminal tax matter. With enough planning and forethought during the audit process a smart attorney and client can prevent the IRS from even starting a criminal tax inquiry. A hard line tax strategy at the start of the audit will protect your license or career. Ways to prevent a common IRS tax audit from turning into a criminal tax investigation include not volunteering incriminating documents, not making admissions to IRS-Criminal Investigation Division, and treating the case as a common civil tax audit with the IRS Revenue Agent with well-prepared common sense explanations to every event.

Setting up a Foreign Trust is not prohibited. Neither is setting up an International Business Corporation. However, failing to divulge certain dealings, or using untaxed funds can be prosecuted as tax evasion. If handled incorrectly, the IRS may decide to prosecute a tax crime. The sentence for tax evasion includes incarceration in a federal penitentiary for up to 5 years, fines up to \$500,000 and restitution of the tax loss, plus the 75% civil fraud penalty and interest.

Here are some ground rules we use at TaxpayerLawFirm.com. First, it is an absolute given that you discuss this case with no one, especially the IRS. If you walk into an interview without competent legal help, during the interview they will extract statements to be used against you. Funny thing, but when you see their field records you will find that there is no

information that will help your side, even if you told them things that clearly would help your side. This is why we never volunteer information at audit interviews. Second, our clients at TaxpayerLawFirm.com don't even accompany our attorneys to the interview. We would prefer to assert your rights under the IRS laws and rules and stay completely away from the interview.

The benefit of hiring an experienced criminal tax attorney early on is to avoid detection of the act, prevent further harm and pursue your legal rights to keep you out of harm's way. Since you are protected by the attorney-client privilege, everything you tell us at TaxpayerLawFirm.com remains firmly confidential. We will do everything possible to protect any professional licenses you may hold. We will protect you from your circle of friends and business associates finding out about the investigation. While it is expensive to hire competent representation in criminal tax matters, the cost of hiring is tiny compared to a criminal conviction on your record and repayment of the tax, 75% civil fraud penalty, interest and court fines.

John E. Ellsworth is an aggressive tax attorney whose practice is limited to tax disputes with the IRS and state governmental tax agencies. A free initial telephone call to him should answer your key questions. This no obligation telephone call is strictly confidential and protected by the attorney – client privilege and will never be disclosed. We look forward to hearing from you and discussing your tax situation.

Please call 800-946-8122 discuss your case with John E. Ellsworth, Esq. This is a free initial consultation and is protected by the attorney-client privilege.

Contact us to schedule a Tax Attorney consultation. Evening and weekend hours are available by appointment. As this tax law firm represents individuals and business and is always pleased to meet with you, please call us at 800-946-8122 to discuss your situation in detail.

Legal Defenses for Offshore Audits

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The tax attorneys at Ellsworth Law Group are specialists in tax disputes with the IRS and state governmental tax agencies. A free initial telephone call to us should answer your most compelling questions about overseas audits. This no obligation telephone call is strictly confidential and protected by the attorney – client privilege and will never be disclosed. We look forward to hearing from you and discussing your tax situation

About Us



ELLSWORTH LAW GROUP and Ellsworth Law Group is an aggressive tax firm whose practice is limited to tax disputes with the IRS and state governmental tax agencies. This includes all audit international efforts put upon you by the IRS. A free initial telephone call to us should answer your most compelling audit international questions. This no obligation telephone call is strictly confidential and protected by the attorney – client privilege and will never be disclosed. We look forward to hearing from you and discussing your audit international tax situation.

Going through an audit international alone can be an apprehensive and risky thing. Don't risk going it alone! Instead, hire an

appeal tax assessment specialist from Ellsworth Law Group to defend you.

Contact us to schedule a **Tax Attorney consultation**. Evening and weekend hours are available by appointment. As this tax law firm represents individuals and business and is always pleased to meet with you, please call us at 800-946-8122 to discuss your situation in detail.

Tax Lawyer

Do you need a tax lawyer to help with your IRS issues? The IRS tax lawyers at Ellsworth Law Group have helped many businesses and individuals overcome their tax problems, and we can help you too. No matter what kind of crisis you are dealing with, a tax lawyer from Ellsworth Law Group will aggressively fight your case.

For over twenty five years the Ellsworth Law Group lawyers have provided quality, professional legal counsel to both individuals and businesses. Whether you need a tax lawyer that specializes in individual taxpayers' issues and needs, or you require a business tax lawyer or corporate tax lawyer, we can help in all areas of tax law.

Your entire tax audit case is handled by John E. Ellsworth-this is our secret. John handles every aspect of a tax case himself. Every IRS phone call is made by John; every letter is drafted by John; every meeting or dealing with the government is done only by John. We believe there is no such thing as a routine tax audit, or call or letter to the government. They all mean something and nothing should be overlooked or taken for granted. There are no salesmen or assistants working on your confidential tax audit case at any time. Of course John also relies on the valuable assistance of a select group of CPA's and professionals to help him develop your IRS tax case. But when it's all said and done, it is John E. Ellsworth's opinion and his expertise that will be presented to the IRS and Tax Court judges. Please compare this level of tax case service and applied expertise to that offered by others. You will be amazed at

what a difference this extra protection and care can make in the outcome of your tax audit!

A tax attorney from Ellsworth Law Group is highly skilled and highly specialized. There is simply no higher designation available. Evening and weekend hours are available by appointment.

HOW WE DEFEND YOUR TAX AUDIT

It is only fair that you know how ELLSWORTH LAW GROUP and its attorneys defend your tax returns in the audit you have entrusted to them. The terms of our agreement will be as follows.

ELLSWORTH LAW GROUP will provide the audit defense services for the tax return described in the acceptance email in return for the applicable attorney fee and compliance with all applicable terms of this agreement. The acceptance email is the email sent to you when John Ellsworth of Ellsworth Law Group accepts your case for defense.

HERE IS OUR AGREEMENT WHEN YOU HIRE ME

In this agreement, “you” and “your” refer to a single taxpayer, or taxpayer husband and taxpayer wife. “I”, “me” and “Ellsworth Law Group” refer to Ellsworth Law Group, the attorney providing audit defense services. “IRS” refers to the Internal Revenue Service and “State” refers to your state income tax agency.

Audit: Audit means any communication, including telephone calls, initiated by the IRS or State income tax agency that wishes to audit, examine, review, investigate or verify any item or items on the IRS income tax forms and State equivalent listed on the membership

certificate.

Audit Defense: Audit Defense means that Ellsworth Law Group will defend you through the completion of any income tax audit for the tax year return identified on the acceptance email. Audit notification must be dated before the acceptance date listed on the acceptance email, subject to the limitations and exclusions listed in this agreement. Audit Defense also includes:

1. Handle all communications, including letters and/or telephone calls with the IRS or State regarding the audit.
2. Assign the Audit Representative to manage your case.
3. Develop a strategy with you and meet with the IRS or State on your behalf.
4. Negotiate with the IRS or State through Appeals and pre-litigation Appeals review prior to Tax Court.
5. No settlement will be reached with the IRS or State without your final approval and consent.
6. Two hours of collection assistance will be given if your audit results in additional tax due.

Acceptance Date: Acceptance Date is the date Ellsworth Law Group sends you the acceptance email and payment in full is received. Your Acceptance Date appears on the acceptance email.

Statute of Limitations: Statute of Limitations means the time the IRS or State has to audit your tax return. The Statute of Limitations for the IRS is three years from the date of filing or the due date, whichever is later, and is typically four years for States.

Period of Coverage: Period of Coverage is the period commencing with the Acceptance Date and ending with the expiration of the normal statute of limitations period.

CONFIDENTIALITY

As a member of Ellsworth Law Group's audit client roll, your name, address, and any other personal information will not be disclosed or sold to any persons or firms. Only Ellsworth Law Group's Audit and Technical staff will have access to your tax information.

CLIENT BENEFITS

Audit Defense – Ellsworth Law Group will professionally defend a covered income tax return audit from the time of the first notice to its completion, subject to the Audit Defense Plan Limitations and Exclusions described below. This includes any one additional audit that arises during the period of coverage for the original audit. All scheduling of appointments, telephone calls and correspondence will be handled by the assigned audit representative. The assigned audit representative will meet with the auditor on your behalf and will defend you through the highest level of appeals, if necessary.

Assistance with IRS and State Income Tax Notices – Ellsworth Law Group will assist the member to resolve any notice received for the tax return listed on the acceptance email during the period of coverage.

CLIENT OBLIGATIONS

My Responsibility: I (John Ellsworth) am responsible to provide you with the highest caliber audit defense service available.

Your Responsibility: You are responsible

to perform or provide the following:

1. Upon receipt of any communication from the IRS or State, **promptly** call Ellsworth Law Group first! **Do not contact the IRS.** To ensure effective service regarding your audit, **you must** use your assigned Ellsworth Law Group Audit Representative as your **only** contact with the IRS or State. **If you do not contact Ellsworth Law Group within 15 days of the date of the first notice, additional charges may apply. If you wait too long you will impede my (John Ellsworth) ability to defend your case.**
2. Provide your signature(s) on the required IRS or State Power of Attorney and return to the Audit Representative in a timely manner. This will enable your Audit Representative to communicate with the IRS or State on your behalf.
3. Provide the information and documentation necessary to substantiate the various items of income and expense in question so that your Audit Representative can prepare your defense.
4. We ask that you comply with the audit procedure and strategy actions recommended by Ellsworth Law Group and any of the Audit Representative(s) working on your behalf. If you are unable to maintain this commitment, Ellsworth Law Group cannot be responsible for the outcome of your audit and reserves the right to cease providing service where reasonably warranted.

AUDIT DEFENSE PLAN LIMITATIONS

Ellsworth Law Group is dedicated solely to legitimately protecting the rights and assets of our members in the event of an audit. The following defines our service limitations:

- Ellsworth Law Group provides legal assistance, and for additional attorney fees will represent our members in Federal or State Court, including Tax Court.
- Ellsworth Law Group does not provide legal assistance in defending issues of civil or criminal fraud except where an additional agreed fee has been paid.
- Ellsworth Law Group does not prepare or amend our clients' Federal, State or Local income tax returns except where an additional agreed fee has been paid.
- Ellsworth Law Group will not reconcile checkbooks, organize records or do record keeping or bookkeeping for our clients except for an additional agreed fee.
- Ellsworth Law Group does not provide assistance for collection notices when I did not defend the audit. If you have a collection notice from the IRS or State it is not considered an audit or notice and is not covered by your Ellsworth Law Group Audit Defense Coverage.

AUDIT DEFENSE PLAN EXCLUSIONS

Certain audits, tax returns, and issues of audit may be excluded from the Audit Defense Plan for any of the following reasons:

Pre-existing conditions – If the date on the notice of audit from the IRS or State is after the Acceptance Email, audit defense

services for that audit are excluded.

Ownership interest in other tax entities – If you have an ownership interest in a Corporation, Partnership, LLC, LLP, Trust, Estate, or Tax Shelter that has been contacted for an audit and is not a Ellsworth Law Group client, audit defense services are excluded for that tax entity.

Tax protestors – Ellsworth Law Group will exclude anyone protesting the taxing of income on economic, religious, legal or constitutional grounds, or other such claims.

Criminal Investigation (CI) – If you are currently under investigation by CI, you are excluded from audit services except where an additional agreed fee has been paid. For any audit that Ellsworth Law Group is defending in which CI enters the audit, Ellsworth Law Group will cease working that audit and will exclude the client from further audit service until completion of the CI investigation except where an additional agreed fee has been paid. When the CI investigation is completed, Ellsworth Law Group will resume working on the audit.

Other taxes – Your Audit Defense Plan is limited to the type of income tax return listed on the Acceptance Email. Payroll tax, sales tax, estate and gift tax, and compliance audits of pension and profit sharing plans are excluded from the Audit Defense Plan.

Contact us to schedule a Tax Attorney consultation. Evening and weekend hours are available by appointment. As this tax law firm represents individuals and business and is always pleased to meet with you, please call us at 800-946-8122 to discuss your situation in detail.