

# IRS **AUDIT** SURVIVAL GUIDE

*Audits don't have to be painful. Minimize your tax bill and stay protected with our simple guide!*



**GORDON**  
— LAW —

# IRS **AUDIT** SURVIVAL GUIDE

Receiving an IRS notice can easily strike fear into any taxpayer's heart. What are you supposed to do? How much will this disrupt your life? And most importantly, how much is it going to cost you? These questions can easily send you into a panic.

But with this guide from the experienced tax attorneys at Gordon Law Group, you'll be prepared to face your audit, minimize your risk, and fight for the lowest tax bill possible!

*This IRS Audit Survival Guide focuses on IRS income tax audits. However, the team at Gordon Law Group can assist with any type of IRS or Illinois tax audit!*



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# UNDERSTANDING YOUR AUDIT NOTICE

The IRS will always begin an audit by sending you a notice of examination in the mail. The IRS will never call, text, or email you to initiate an audit. Pay attention to the following pieces of information in your letter.



## 1. 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 meant for someone else with your name.

## 2. IS THIS A PERSONAL OR BUSINESS TAX AUDIT?

Who is the notice addressed to? A business audit notice will be addressed to the business, whereas a personal audit notice will not include the name of your business. A personal tax audit will focus on your individual income tax return, while a business tax audit will be related to business income items and deductions.

## 3. WHICH TAX YEARS ARE BEING EXAMINED?

You can find this information in the top right corner of your notice. Typically, the IRS has 3 years to initiate an audit. The 3-year clock begins from the date the tax return was due or from the date you filed it, whichever is later.

## 4. WHERE WILL THE AUDIT TAKE PLACE?

If you see the word "correspondence," the audit will be conducted by mail. Otherwise, the audit will be conducted in a local IRS office (in this case, you'll probably see a proposed meeting time and place on your notice) or on location at your home or business. See the next page for more information about different types of audits.

## 5. DOES THE NOTICE REQUEST SPECIFIC DOCUMENTS?

If so, the list of requested documents will be located in the body of the letter. However, this information isn't always included in the initial notice.

## 6. WHAT'S THE DEADLINE TO RESPOND?

Check the response date in the top right corner of your notice. The IRS typically gives taxpayers 30 days to respond to a notice of examination.

# 3 THINGS TO KNOW ABOUT IRS AUDITS

Before we dive into details about how IRS audits are conducted, let's cover some essential background information.

## 1. TYPES OF IRS AUDITS

The type of audit, which can be identified on your notice of examination, impacts where and how the audit takes place.

- **CORRESPONDENCE AUDITS** are the most common type of audit and are conducted via mail. They typically only focus on 1 or 2 issues.
- **OFFICE AUDITS** take place in a local IRS office, where you'll meet face to face with the audit examiner. If the suggested location is too far away, you can request to have it moved. You will likely be able to avoid attending any of these meetings yourself if you hire a representative.
- **FIELD AUDITS** are typically reserved for a wider-than-average scope of examination (meaning you'll need to verify more of the items on your tax return, and there is a higher potential for owing tax at the end of the audit). The IRS will try to conduct the audit in your home or place of business, but when you hire Gordon Law Group to represent you, we conduct all meetings in our office instead. You may still need to speak to the examiner face to face at least once or grant them a tour of your workplace, but hiring a representative can protect you from most of the disruption a typical field audit entails.

### AVERAGE AMOUNT OWED AFTER AN AUDIT

How much is an audit going to cost you? According to IRS data, the average assessment (amount of tax owed) after a correspondence audit was just over **\$6,000 per tax return**. For field audits, that number jumps to nearly **\$27,000 per tax return** (for audits of individual income tax returns).

Source: [Examination Coverage: Recommended and Average Recommended Additional Tax After Examination, by Type and Size of Return, Fiscal Year 2019](#)

## 2. HOW FAR BACK CAN THE AUDIT GO?

In most cases, an IRS examination can go back 3 years. As we mentioned earlier, the tax year(s) being examined will be identified at the top of your audit notice. However, there are certain cases where the look-back period can be extended.

During the audit, the IRS can expand the audit window to 6 years if the examiner believes your income was underreported by 25% or more. If the examiner finds reason to suspect the tax returns are fraudulent, there is no limit on how far back the audit can go.

### 3. WHAT TRIGGERS AN IRS AUDIT?

Don't immediately assume that you've done something wrong just because you've been chosen for an audit; sometimes, it's just the luck of the draw. The IRS has a National Research Program that randomly examines a certain number of tax returns each year to shed light on the percentage of completed tax returns that contain errors.

Other common reasons for an IRS audit include:

#### **MISSING INCOME**

If you've omitted or underreported any income from your tax return—including wages, capital gains, dividends, interest, or miscellaneous income—you could be the target of an IRS audit. Other sources may report this information about you to the IRS, raising a red flag if your tax return doesn't match.

Investors in stocks, bonds, real estate, cryptocurrency, or other types of investments should be extra careful with their tax reporting; each additional source of income adds more potential for error.

#### **HIGH DEDUCTIONS AND CREDITS**

If you're claiming an unusual number of deductions or credits compared to others in your tax bracket, or deductions that are inconsistent with previous years' earnings, that can draw attention from the IRS.

The Earned Income Tax Credit (EITC) for parents is frequently misused, and therefore often examined. Write offs for charitable donations, substantial business losses, and real estate investments are also common targets of IRS scrutiny.

Do you run a small business, particularly on a part-time basis? Be sure the IRS will consider your venture a legitimate business; the Tax Cuts and Jobs Act of 2018 tightened restrictions on who can claim business expense deductions. If your business is deemed a "hobby," your claimed deductions may be invalidated.

#### **AUDIT BY ASSOCIATION**

If you're financially involved with another individual or business that's been audited, the IRS may uncover your information during the examination and decide to audit you, as well.



# NAVIGATING THE AUDIT PROCESS STEP BY STEP

Now that we've laid the groundwork, it's time to talk about exactly what you can expect throughout the audit process.

These are the 4 steps of an IRS examination. Read on for more information about each step!



1

## NOTICE OF EXAMINATION

*You'll receive a letter from the IRS notifying you that you've been selected for an audit.*

2

## SUPPLY THE INITIAL DOCUMENTS

*Send in the documents requested in the audit notice, or determine which documents are required.*

3

## EXAMINING THE RECORDS

*The auditor examines the documents in question to determine if you owe additional tax.*

4

## THE ASSESSMENT

*The auditor sends a Notice of Proposed Adjustment (NoPA) stating how much they believe you owe in tax and penalties.*

## 1. NOTICE OF EXAMINATION

Every audit begins with a notice of examination that will be mailed to you. In addition to the information we walked through earlier, the notice will contain the audit examiner's name and contact information.

Typically, you will have 30 days to respond to the notice; it may or may not contain a suggested time and place for the first meeting with the examiner. Don't make the mistake of thinking this meeting is set in stone—you can request more time to prepare your documents, or request another location.

If you hire professional audit defense, you'll need to sign a Power of Attorney form, which we will send on your behalf in response to the notice.

## 2. SUPPLY THE INITIAL REQUESTED DOCUMENTS

As we mentioned in Chapter 1, Understanding Your Audit Notice, your audit letter may request specific documents for you to send. If so, you or your representative should prepare, organize, and send the auditor this information according to the instructions in your notice.

**Pro tip:** If your audit notice did not request specific documents, you or your representative should respond to the notice and determine what the IRS examiner needs to see. Do not send documents that haven't been specifically requested, as you could risk increasing your assessed tax bill, penalties, or likelihood of referral for criminal prosecution.

## 3. EXAMINING THE RECORDS

Your audit examiner will review the initial documents to determine the scope of the audit and which areas to focus on. It's very likely that throughout the process, you will receive additional Information Document Requests (IDRs) asking for specific records.

The IRS examiner may or may not request an interview to ask questions about specific items on your tax return. Keep in mind that anything you say to the examiner—as well as anything you say to an accountant who is not a tax attorney—can be used against you if the audit proceeds toward civil or criminal litigation.

It's best to let your representative speak for you to avoid any costly mistakes. Better yet, we can often arrange it so that you don't need to meet the examiner in person at all.

During the audit, the scope of the examination may increase to include additional tax returns. Remember, if the auditor believes income was underreported by 25% or more, the audit window can expand to 6 years instead of 3. If they suspect fraud, the examination can go back an unlimited number of years.

In some cases, the examiner may ask you to extend the statute of limitations for assessing tax on certain tax returns. If that happens, be sure to consult a professional about the pros and cons of granting the extension.

## 4. THE ASSESSMENT

Now comes the part that everybody fears: a bill from the IRS. More accurately, the IRS will conclude the audit by sending a Notice of Proposed Adjustment—however, this amount is not necessarily final, and the collections process is completely separate from the audit process.

In the next chapter, we'll explain your options to repay or dispute the amount owed.

### BEWARE COMMON TAX TRAPS!

Do you have foreign financial accounts or assets? Do you invest in cryptocurrency? These are more niche areas of tax law, and many tax professionals overlook them due to lack of experience. At Gordon Law Group, offshore taxes and cryptocurrency taxes are among our core practice areas.

#### FOREIGN FINANCIAL ACCOUNTS AND ASSETS

We've seen countless cases where well-meaning taxpayers hire a professional to prepare their tax returns, but do not complete required forms because the professional never asked the right questions about foreign accounts.

If this type of mistake comes to light during your audit, the penalties could be severe. You could face standard penalties for underreporting income (20%), but there are additional non-filing penalties attached to specific foreign disclosure forms. These penalties can be thousands of dollars apiece, per year.

#### CRYPTOCURRENCY INVESTMENTS AND TRADES

Cryptocurrency is not as anonymous as many investors think! In fact, it can be very easy for an IRS examiner to discover crypto transactions during an audit, because you will mostly likely have money going from your bank account to an exchange, or from an exchange into your bank account.

If your auditor finds this type of evidence of cryptocurrency activity and you have not reported it properly on your tax returns, that could open a can of worms—triggering penalties for underreporting income or even a criminal tax investigation.



# AFTER THE AUDIT: OPTIONS TO LOWER YOUR TAX ASSESSMENT

It's a common misconception that the results of a tax audit are final. Although the attorneys at Gordon Law Group work hard to secure a favorable outcome *during* the examination to save you both time and money, you do have the option to dispute the results once the audit is complete.

Here's what happens after the audit:

1

## RECEIVE NoPA

When the audit is complete, the IRS will send you a Notice of Proposed Adjustment (NoPA). This is what the audit examiner has determined you owe after reviewing your records.

2

## AGREE OR DISPUTE

If you agree to the proposed amount of tax due, simply sign the notice and send it back.

If you disagree with the assessment, you can appeal the result or even escalate the matter to U.S. Tax Court (see next page).

3

## RECEIVE BILL

Whether you agree to the initial audit results or decide to escalate the case, you will eventually receive a bill from the IRS. This begins the IRS collections process.

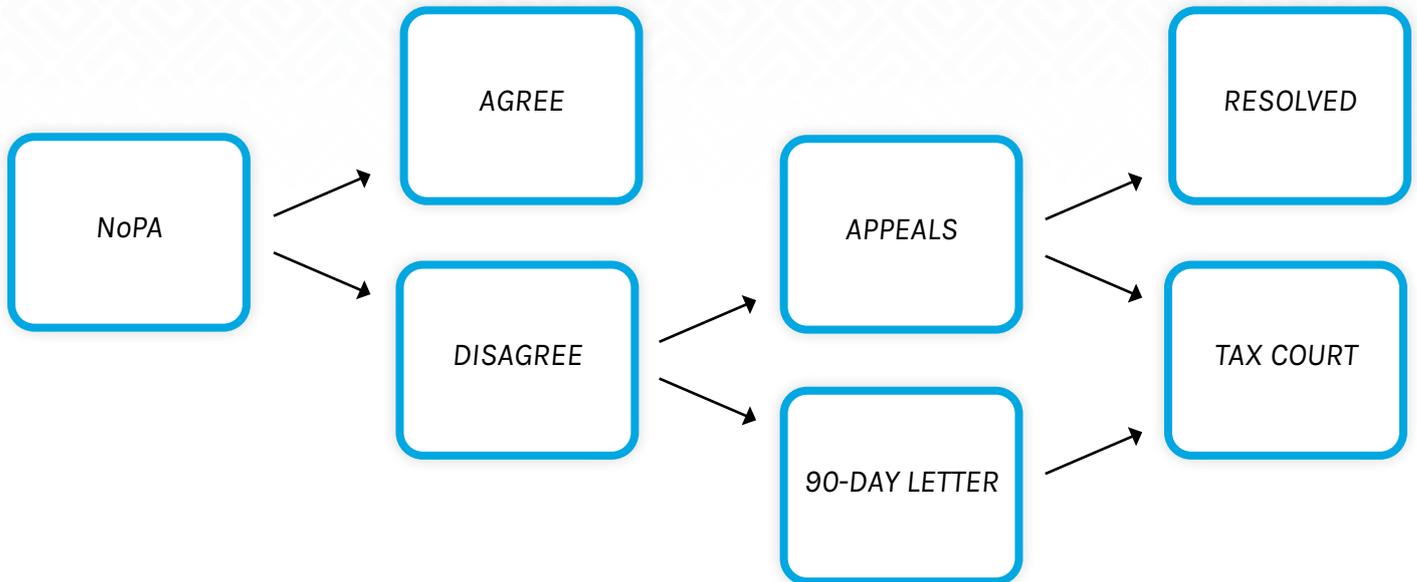
4

## PAYMENT OPTIONS

Remember, you don't have to pay the full amount right away OR all at once. There are many possible paths to repayment (see Page 11).

## OPTIONS TO DISPUTE THE NOTICE OF PROPOSED ADJUSTMENT

If you disagree with the assessment, you can appeal the result or even escalate the matter to U.S. Tax Court. We recommend discussing all your options with a tax attorney before moving forward with either path.



### APPEALS

After receiving your Notice of Proposed Adjustment, you have **30 days** to request an appeal. The IRS Appeals Division is a separate branch from the one handling examinations. Compared to audit examiners, IRS Appeals Officers have more authority to compromise with taxpayers. The majority of cases in IRS Appeals are resolved there without escalating further.

### 90-DAY LETTER

If you don't respond to the Notice of Proposed Adjustment, the IRS will then send you a Notice of Deficiency, which includes the proposed amount due and provides your final chance to dispute the assessment before it becomes final. Once you receive this, you will have **90 days** to take the matter to U.S. Tax Court.

### U.S. TAX COURT

Cases that are not resolved in IRS Appeals may be escalated to U.S. Tax Court. Alternatively, you may be able to skip Appeals and go straight to Tax Court after receiving a Notice of Deficiency.

*Please consult a professional if you disagree with your audit results. The pros and cons of each option depend on the facts of your case.*

*If you're not sure what you should do, or if you have questions about any of these steps, please call Gordon Law Group at 847-580-1279 to schedule a confidential consultation.*

## TAX DEBT REPAYMENT OPTIONS

As we mentioned previously, there are several options when it comes to paying IRS debt. The most important thing is to tackle the issue as early as possible.

We won't sugarcoat it: The IRS has the power to file liens against your property, garnish wages (meaning the money comes out before you receive your paycheck), or even levy funds directly from your bank account. However, those worst-case scenarios can easily be avoided by working with experienced tax counsel.

Remember that all of this occurs *after* the audit is complete. We want you to be informed, but there's no need to panic if you've only just received your audit notice!

Whether you accept the initial audit results or decide to escalate the case, you will eventually receive a bill from the IRS. Then, you can choose one of these options with the guidance of an experienced tax debt attorney:

### **PAY IN FULL**

To avoid monthly interest and non-payment penalties being added to your bill, pay in full by the stated deadline (typically 10 days).

### **PAY OVER TIME**

Installment Agreements allow you to repay IRS debt over a set period of time (often 72 or 84 months).

### **NEGOTIATE REDUCED DEBT**

The IRS has a limited amount of time to enforce debt repayment. If you won't be able to pay the full amount before that window closes, you may qualify for an Offer in Compromise. This can substantially reduce the amount you owe.



# HOW TO PREPARE FOR YOUR AUDIT

Now that you understand the audit process and your options at each stage of the process, it's time to prepare for the examination.

## RESPONDING TO THE AUDIT NOTICE: WHO SHOULD YOU CALL?

We always recommend hiring a tax professional to represent you in an audit if you want the best chance of a favorable result. This can be an Enrolled Agent, Certified Public Accountant, or tax attorney.

The team at Gordon Law Group includes tax attorneys and accountants, and we guarantee that an experienced tax attorney will take the lead on your case from beginning to end.

Although it's certainly possible to go through an audit on your own, there are a few key reasons why it's not recommended:

1. If you're facing an IRS audit, you probably want to get it over with as soon as possible; a professional who knows the ins and outs of the process can do just that. We can help expedite your audit, as well as limit your exposure during the examination.
2. The IRS is known to be penalty-happy when it comes to audits. Little things like miscalculations or failing to keep detailed records can lead to financial penalties and a large tax bill. A professional knows best how to reduce the bill and attempt to prevent the assessment of penalties.
3. Once the audit is complete, you can appeal the results or explore options for tax debt relief, but there's only a short window of time to do so. The process tends to move faster when the person representing you for an appeal or tax resolution is already familiar with your case.
4. Many things are open to interpretation under tax law. An inexperienced taxpayer may be more easily pushed around by an IRS examiner; a tax attorney can help argue your case when it comes to legal gray areas.

## WHAT'S THE DIFFERENCE BETWEEN AN ACCOUNTANT AND A TAX LAWYER?

A tax lawyer can offer **attorney-client privilege**, extending much more protection in the case of an IRS investigation. Accountants have a certain level of client privilege, but it goes out the window when a civil or criminal investigation is opened.

If you have even the slightest concern about mistakes on the tax returns being examined, and you fear the IRS could allege fraudulent activity, call a tax attorney immediately.

Plus, a tax attorney can defend your audit all the way to the highest administrative levels. If you disagree with the audit results, we can assist with an appeal or even take your case to U.S. Tax Court. Enrolled Agents and Certified Public Accountants cannot represent a taxpayer in U.S. Tax Court.

Finally, a tax lawyer may have a deeper understanding of certain areas of tax law that could greatly impact your audit results. For example, the attorneys at Gordon Law Group are highly experienced with issues like offshore taxes, foreign disclosures, and cryptocurrency taxes, which many accountants do not practice at all.



### WHATEVER YOU DO, DON'T IGNORE THE AUDIT NOTICE!

Trust us, this won't make the issue go away. If you don't respond to the notice of examination, the IRS can simply assess the balance owed anyway. The results are not likely to be in your favor if you aren't there to defend yourself.

### SHOULD I CALL MY CURRENT ACCOUNTANT?

*Many people receive a notice of examination and immediately call the accountant who initially prepared the tax return(s), but this isn't always the wisest move.*

*While some tax audits are conducted at random, they're more often triggered by some type of red flag on the tax return. If the tax professional who prepared your return made a serious mistake on the initial filing, they may not provide the most effective audit defense.*

## TIPS FOR A SUCCESSFUL TAX AUDIT

The purpose of an income tax audit is to assess the difference between how much tax you paid and how much you should have paid. You should be prepared to provide proof that your income was reported correctly, as well as the receipts for any deductions and proof of eligibility for any tax credits that you claimed.

### CONDUCT A PRE-AUDIT

If you hire a professional to represent you, we will conduct our own examination of your tax returns and quickly pinpoint any areas of concern, creating a preemptive plan of defense.

If we find errors, we can create a game plan to help avoid penalties. If you need to support a specific tax position, we'll make sure you're thoroughly prepared to do so with the right documentation.

We may even identify areas where you actually overpaid your taxes!

### THE POWER OF ORGANIZATION

Be sure to thoroughly organize your records before submitting them for examination. This will help the audit run smoothly. Plus, poorly organized records might make the audit examiner think that a more thorough examination will be profitable. On the other hand, well prepared, organized records give the impression that things are in order.

### BE HONEST WITH YOUR TAX ATTORNEY

Strong audit defense depends on clear communication about potential issues. That way, our attorneys can create a plan to minimize your tax liability and risk. It's crucial to communicate all the facts to your representative early on if you want to avoid unpleasant surprises.



However, remember that *only* a tax attorney can provide attorney-client privilege that extends to a civil or criminal tax investigation!



### WHAT IF I DON'T HAVE ALL MY RECORDS OR RECEIPTS?

*This is a common problem that taxpayers face during an audit. Don't worry; we can help! Contact Gordon Law Group at 847-580-1279 to learn more.*

# CONCLUSION

Although an IRS audit is certainly never fun, we hope you feel more prepared to take on the examination after reading this guide!

Remember that you can hire a professional to defend your audit at any stage. But, as with most tax issues, the earlier you seek the help of an experienced professional, the better your chances of a favorable outcome.

## FACING A TAX AUDIT?

*Call now for a confidential and completely FREE consultation with a tax attorney!*



**Michael Raff**  
Director of Tax

*Gordon Law Group is a respected tax law firm with offices in downtown Chicago and suburban Northfield. We assist clients nationwide with IRS and Illinois tax matters, including skilled audit defense.*

*We pride ourselves on providing personal, one-on-one attention to each and every client. At Gordon Law Group, you'll work with a highly knowledgeable and experienced tax lawyer from beginning to end.*

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