



Robert W. Wood

THE TAX LAWYER

Feb. 5 2013

IRS Sued Over ‘Sex Or Penalties’ Claim (You Thought Your Audit Was Bad)

Maintaining a friendly but professional demeanor can be important to in audit or tax dispute. Sex with the government for a better audit result? Not a good idea. Yet a lawsuit involving an allegedly alluring—and demanding—female IRS agent suggests that sometimes facts and figures can become overwhelming. If you believe the plaintiff, passion, it seems, can overtake a tax audit.



SEX (Photo credit: je@n)

Unlikely? I agree. Preposterous? Perhaps. But Vincent Burroughs of Oregon has sued the IRS and IRS Agent Dora Abrahamson claiming she threatened him with penalties in his tax audit if he didn't, er, come across. See [Vincent Burroughs Accuses IRS Agent Dora Abrahamson of Coercing Sex by Using Threat of Tax Penalty](#). This is no laughing matter—the plaintiff wants punitive damages.

After all, it was put up or shut up, the suit claims, which hardly sounds like a [Nicholas Sparks](#) romance. The story opens when the IRS contacted Mr. Burroughs for an audit in August 2011. The IRS agent flirted with him over the telephone and via text messages, the suit claims, offered him massages and sent him a photo of herself in her underwear. Mr.

Burroughs claims he ignored her advances, only surrendering when she came to his home “provocatively attired.”

The suit claims the IRS Agent’s conduct caused him distress and violated his constitutional right to privacy. The tit-for-tat claim asserts that the Agent said she could impose no penalty or a 40% penalty depending on whether the taxpayer gave her what she wanted. See [Fall Creek Man’s Lawsuit Alleges Coercion by IRS Agent](#). Talk about stiff penalties (sorry).

Getting out of penalties is rarely so involved. Sure, it’s hard to offer an excuse the IRS has never heard. They hear some [doozies](#). Some penalties might be waived for one condition but not for others. And some [tax excuses](#) just don’t work. Take late filing.

For many years, you were supposed to attach a “reasonable cause” explanation to late returns. Now, no matter how late you file some returns, the IRS says **not** to attach an explanation. Just wait to see if you get a penalty notice. If you do, you can offer your dog-ate-my-homework excuse **then**.

If your accountant embezzles your money, does that relieve you of IRS penalties? Not necessarily. What if the embezzling accountant dies? This fact pattern was not enough to get business owners out from under a \$2 million penalty. In [Oppliger v. United States](#), the U.S. Court of Appeals for the Eighth Circuit ruled for the IRS, finding the business owners to be “responsible persons” subject to a \$2 million penalty.

As for Mr. Burroughs, stay tuned. Court TV could be calling.

*Robert W. Wood practices law with [Wood LLP](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009 with 2012 Supplement, [Tax Institute](#)), he can be reached at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*