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THE TAX LAWYER

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Lois Lerner's Law Makes 'I Lost My Receipts' Legal With IRS!

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The IRS can't produce emails and some Republicans think it's time to turn the tables. That's why Rep. Steve Stockman of Texas has introduced a bill called the "The Dog Ate My Tax Receipts Act," to allow us all to try out some excuses. The IRS says a computer glitch erased the hard drives of all incriminating evidence in the tea party targeting scandal. Then, when investigators wanted to see the hard drives?

The hard drives are not available for forensic investigation because they have been destroyed for recycling. Hey, we're green. Now, Rep. Stockman says, "Taxpayers should be allowed to offer the same flimsy, obviously made-up excuses the Obama administration uses."

This bill would allow taxpayers who do not provide documents requested by the IRS to claim one of the following reasons:

1. The dog ate my tax receipts.
2. Convenient, unexplained, miscellaneous computer malfunction.
3. Traded documents for five terrorists.
4. Burned for warmth while lost in the Yukon.
5. Left on table in Hillary's Book Room.
6. Received water damage in the trunk of Ted Kennedy's car.
7. Forgot in gun case sold to Mexican drug lords.
8. Forced to recycle by municipal Green Czar.
9. Was short on toilet paper while camping.
10. At this point, what difference does it make?

The resolution says that the "IRS must allow taxpayers the same lame excuses for missing documentation that the IRS itself is currently proffering."



(Photo credit: rpavich)

Is this serious? Probably not, but every taxpayer has looked for receipts. Seinfeld fans may remember the “[The Truth](#),” Episode 19, aired Sept. 25, 1991. The IRS questioned Jerry about a \$50 charitable contribution to the people of Krakatoa. The IRS normally doesn’t require extra substantiation of charitable donations less than \$250, so Jerry’s check or bank statement would have sufficed.

More generally, receipts are critical. But if you can’t find one, remember the Cohan Rule, from [Cohan v. Commissioner](#). [George M. Cohan](#) was a Broadway pioneer with hits like “Give My Regards to Broadway” and “Yankee Doodle Boy.” His [statue](#) still commands Times Square. But the IRS disallowed Cohan’s travel and entertainment expenses for lack of receipts.

He took the IRS to the predecessor to today’s U.S. Tax Court. Receipts being the stock in trade of the tax system, it upheld the IRS. Cohan appealed to the Second Circuit, which in 1930 rocked

the IRS back on its heels with the Cohan Rule. To this day, it is as an exception to stringent IRS record-keeping requirements, allowing taxpayers to prove by “other credible evidence” they actually incurred deductible expenses.

The Cohan Rule often doesn't impress the IRS and doesn't always work in court. Still, if the IRS or a court is convinced by oral or written statements or other supporting evidence, and a reasonable approximation can be made, you're golden despite your lack of documentation. Even charitable contributions have been allowed under the Cohan Rule, though not where there are special strict [substantiation requirements](#). Those rules require you to have a receipt even for small cash donations, including \$20 put in the collection plate on Sunday and (for donations of more than \$250) a contemporaneous written acknowledgement from the charity before filing your tax return.

You can reach me 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.