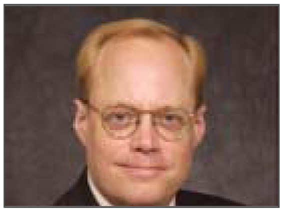
Forbes



Robert W. Wood

THE TAX LAWYER

Jun. 27 2011 — 8:28 am

Should You Grant IRS More Audit Time?

No one wants to be audited or to get a bill for back taxes. Instead, you want to know your tax return is safe so you can close the books on whatever tax skeletons you have in the past. But can you?

Normally, the IRS must audit a return within three years. See Even The IRS Has Time Limits. In some cases, the IRS gets six years, and increasingly, the IRS is pushing for it. Precisely when the IRS gets double time has become controversial. See IRS Strides Toward Six Year Audit Period!

But what do you do if about two and a half years after you filed your tax return, the IRS asks you to ***extend*** the statute of limitations? Here are three things you should know.

1. Usually, You Should Agree. Your first reaction may be to say no. You are under no legal obligation to give the IRS more time. But if you say no you almost inevitably will receive an IRS notice assessing extra taxes.

That may sound punitive, a kind of "so there" to your saying "no" to their request for more time. These notices are based on whatever information the IRS has and an interim stage of the IRS audit process. The IRS is likely to resolve any doubts in favor of higher taxes.

In most cases, therefore, you should agree to the requested extension. You may be able to limit the scope of the extension to certain tax issues, or limit the time (say, an extra year). Seek professional tax help if you receive such an inquiry.

2. IRS Safeguards. When the IRS asks for more time, they must notify you of your rights, including your right to decline to extend the statute. They also must notify you that you can request any extension to be limited to specific issues or to a specific time period. According to a June 13, 2011 report by the Treasury Inspector General for Tax Administration (TIGTA), a watchdog office, the IRS is following through with these rules. See Audit Report No. 2011-30-055.

3. Keep Good Records! The key to statute of limitations issues is timing. Keep scrupulous records, including proof of when you mailed your returns. The difference between winning and losing—or between a good and mediocre settlement since the vast majority of IRS disputes are settled—often depends on records. The statute usually begins to run when a return is filed, so keep certified mail or courier confirmation. If you file electronically, keep all the electronic data, plus a hard copy of your return.

As for record retention, you can destroy receipts and back-up data after six years. Never destroy old tax returns. As you're destroying old receipts, if they relate to basis in an asset, keep them. For example, receipts for home remodeling are still relevant as long as you own the house. You may need to prove your basis when you later sell it.

For more, see:

What Triggers IRS Statute Of Limitations?

Even The IRS Has Time Limits

IRS Statute of Limitations, Training 4213-021

IRS Statute of Limitations Processes and Procedures

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