

The Odds You'll Be Audited This Year

By Robert W. Wood

Before filing tax returns, it is only natural to reflect on the likelihood that you will be expected to explain your returns. Could you be asked to dig out receipts to show that you were entitled to claim all that you claimed? It can be a sobering thought, but is a healthy one.

And it can be enhanced by all of the news stories that seem to surface at this time of year about people getting indicted for tax evasion, or getting convicted. Some go to jail. It is sobering indeed, and can make you pause a bit before signing your return under penalties of perjury.

The news late last year that Internal Revenue Service audits of individuals dropped to an 11-year low made for gloomy revenue projections for tax collections. But it also made many taxpayers happy who, understandably, do not want to be audited. Even if you think you've reported everything and done it properly, providing receipts is maddening, and often seems dangerous. Taxes are complex, and gray areas abound.

But your odds of audit are low, and dropping even further. The IRS is auditing only 0.84 percent of individual taxpayers, less than one in 100. An audit might be in person or by correspondence, but there's a small chance of either. Recently, the IRS commissioner has suggested that the tax audit picture for the IRS may be gloomier still. And although this bad for American tax revenue figures, the average taxpayer is relieved.

IRS Commissioner John Koskinen made a reflective speech to the National Press Club March 24 (*available at* <https://www.irs.gov/uac/March-24-2016-Commissioner-Koskinen-Speech-to-National-Press-Club>). It is worth quoting some his comments verbatim as they reveal some startling statistics:

"Our budget for this fiscal year is about \$900 million below 2010. Since 70 percent of our budget is personnel, we have absorbed these cuts mostly by not replacing employees who leave for other jobs, or who retire, like Angelo or Bill. If it's a critical position, we may shift another employee into that slot. But it's still a net drop in the size of our workforce. As a result, we expect the IRS workforce to shrink by another 2,000 to 3,000 full-time employees this year. That will add up to about 17,000 full-time employees lost through attrition since 2010."

"These losses have been felt all across the IRS. For example, our compliance programs have suffered as a result of underfunding. The portion of our full-time workforce that has been lost since 2010 includes over 5,000 key enforcement personnel. These are the people who audit returns and perform collection activities, as well as the special agents in our Criminal Investigation division who investigate stolen identity refund fraud and other tax-related crimes."

"As you might imagine, these staffing losses have translated into a steady decline in the number of individual audits over the past six years. Last year, in fact, we completed the fewest audits in a decade. Plus, our audit coverage rate in 2015 was the lowest since 2004. That trend line of fewer audits will continue this year."

"Not surprisingly, audit revenue has continued to decline as well. In cutting the IRS budget, historical collection results suggest that the government is forgoing more than \$5 billion a year in enforcement revenue, just to achieve budget savings of a few hundred million dollars. In weakening our compliance programs, these cuts also create risk for our system of voluntary compliance."

This kind of cutback is probably bad for America's tax system. When there are cuts to the IRS budget, compliance tends to suffer. Perhaps motorists are more likely to speed if there is a cutback in the highway patrol. But the IRS is not exactly a warm and fuzzy organization, and it is unlikely that Republicans will be moved to increase the IRS budget.

Indeed, recall that this is the same IRS chief whom the Republicans had wanted to impeach. Oversight Committee Chair Jason Chaffetz, R-Utah, introduced a resolution (H. Res. 494, 114th Cong. (2015)) to impeach Koskinen. Chaffetz and his colleagues also wrote to President Barack Obama requesting Koskinen's removal. The resolution claims that the IRS chief violated the public trust by:

- Failing to comply with a subpoena resulting in destruction of key evidence. Koskinen failed to locate and preserve IRS records in accordance with a congressional subpoena and an internal preservation order. The IRS erased 422 backup tapes containing as many as 24,000 of Lois Lerner's emails — key pieces of evidence that were destroyed on Koskinen's watch.

- Failing to testify truthfully and provided false and misleading information. Koskinen testified the IRS turned over all emails relevant to the congressional investigation, including all of Lerner's emails. When the agency determined Lerner's emails were missing, Koskinen testified the emails were unrecoverable. These statements were false.

- Failing to notify Congress that key evidence was missing. The IRS knew Lerner's emails were missing in February 2014. In fact, they were not missing; the IRS destroyed the emails on March 4, 2014. The IRS did not notify Congress the emails were missing until June 2014 — four months later, and well after the White House and the Treasury Department were notified.

As America's taxpayers reflect on low audit rates, it is worth noting that a low audit rate is likely to embolden some taxpayers and tax advisers. They may feel like they are in the clear. Statistically speaking, they might be. But *someone* is going to get audited.

And in that sense, thinking that audit rates are low and that it is highly unlikely that the IRS will examine your return could actually cause you to become more careless. Conversely, if you are fully prepared for, and even expecting an audit, you are better off. If you have documentation, receipts, log books, and perhaps even a tax opinion, you probably won't need them.

That is the odd karma about being prepared. Of course, no one wants to be audited. And it is understandable that no tax collector is likely to be liked. On that point, the IRS Commissioner included some zingers in his latest speech, noting that, "a recent poll even showed that 12 percent of taxpayers liked Vladimir Putin better than the IRS."



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