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THE TAX LAWYER

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Guess What? You Can't Make IRS Audit You

Can you compel the IRS to look into your own tax issues or even your company's? [Guess?, Inc.](#) co-founder [Georges Marciano](#) thought so, and went to court to prove it. But [dismissing](#) his suit, the court ruled that the Constitution does not guarantee anyone's right to pay taxes. Huh?

It is hard to believe Marciano wanted to pay **more**. Nevertheless, he sued for an order forcing the IRS to investigate his returns and liabilities. Marciano argued that an audit could reveal money owed to the government he says former employees mishandled.

In his [complaint](#), Marciano claimed that he uncovered evidence of "substantial financial irregularities" in his personal and business affairs. He wanted the IRS to straighten it out. Marciano believed he was the victim of identity theft, fraud, embezzlement and a host of other financial crimes. He repeatedly asked the IRS for copies of previous years' tax returns, but was told that they were unavailable.

Marciano also asked the IRS to do an audit of his previous returns. Bear in mind that there are also IRS whistleblower claims, which you can commence by filing an IRS [Form 211](#). You can rat out your former spouse, employer or others for tax wrongdoing and seek a piece of the action from the IRS. See [Whistleblower — Informant Award](#).

But that's not what the Guess? founder did. Even if he had he would only get a reward **if** the IRS collects.

For these and other reasons, the court sided with the IRS. Here's what the [judge said](#):

“Obviously, the extraction by the government of money or property via taxation implicates a constitutionally protected property interest, [McKesson Corp. v. Dep't of Bus. Reg., 496 U.S. 18, 36 \(1990\)](#), but, as noted above, Marciano has asserted repeatedly that he owes the government money, rather than the reverse. The Court is aware of no precedent establishing a protected property interest in the ability to pay taxes.”

For more, see:

[Guess? Co-Founder Loses Suit for IRS Investigation](#)

[I've been begging the IRS to audit me for 4 years!](#)

[Guess Who's Not Getting Audited by the IRS](#)

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