

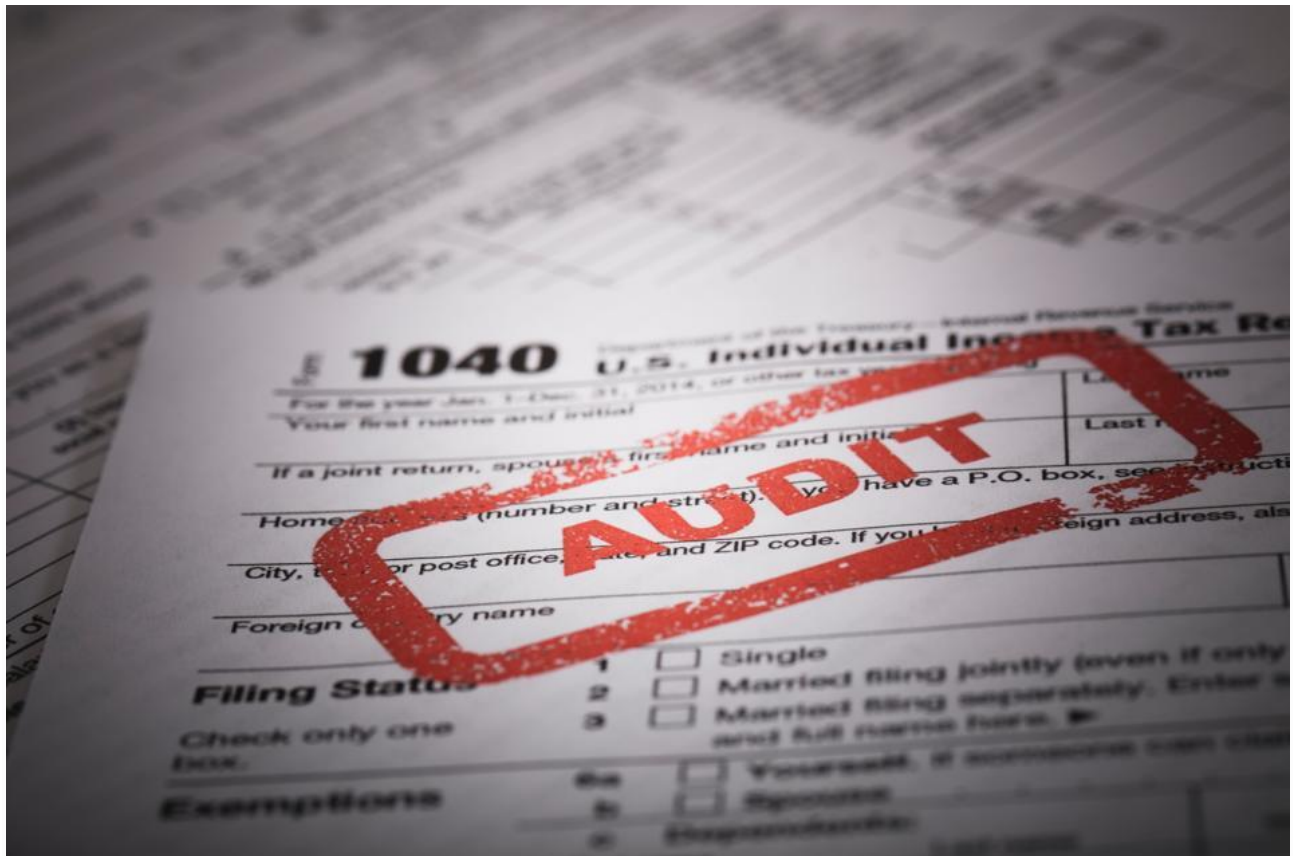


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How Long Can IRS Audit You? It Varies From 3 Years To Forever



It is only natural to be worried about being audited by the IRS. Even if you think your tax return is pristine, gathering receipts is no fun, nor is explaining what you did and why. If your tax returns have unusual or aggressive items, it can be way worse. So how long must you worry? It pays to know how far back you can be audited. Plus, there may be steps you can take to help to reduce your audit risk.

Basic Three Year Rule

The IRS usually has three years after you file your return to audit you. But there are many exceptions that give the IRS six years or longer. For example, the three years is doubled to six if you omitted more than 25% of your income. For years, there was a debate over what it means to *omit* income from your return.

Taxpayers and some courts said "omit" means leave off, as in don't report.

But the IRS says it is much broader, including reporting that has the *effect* of an omission of income. Say you sell a piece of property for \$3M, claiming that your basis (what you invested in the property) was \$1.5M. In fact, your basis was only \$500,000. The effect of your basis *overstatement* was that you paid tax on only \$1.5M of gain, when you *should* have paid tax on \$2.5M.

In [United States v. Home Concrete & Supply, LLC](#), the Supreme Court rejected the IRS argument, holding that overstating your basis is *not* the same as *omitting* income. The Supreme Court [said 3 years was enough for the IRS to audit](#). But then Congress overruled the Supreme Court, and gave the IRS six years in such a case. Six years is a long time.

Another set of items that impact the statute of limitations involves offshore accounts, income and assets. The IRS is very interested in offshore income and assets, and that dovetails with another IRS audit rule. The IRS also gets six years to audit if you omitted more than \$5,000 of foreign income (say, interest on an

overseas account). That matches the audit period for FBARs, annual offshore bank account reports that can carry civil and even criminal penalties far worse than those for tax evasion.

No Time Limits on Audits

The IRS has no time limit on auditing you if you never file a tax return or if you file fraudulently. The IRS can also audit forever if you omit certain tax forms. Examples include [Form 5471](#), which relates to holding stock in a foreign company, [Form 3520](#) for gifts or inheritance from foreign nationals, and [Form 8938](#) for overseas assets. If you skip one of these forms, the IRS clock *never even starts* to run.

Ten Years to Collect

Apart from the other statutes of limitation, once a tax assessment is made, the IRS generally has ten years to collect on it. And, in some cases that ten years can essentially be renewed. That's one reason the IRS can sometimes go back an astounding 30 years. In [Beeler v. Commissioner](#), the Tax Court held Mr. Beeler responsible for 30 year-old payroll tax penalties.

IRS Request for More Time to Audit

Once an audit starts, it is difficult to outrun the statute of limitations. During an audit, the IRS frequently says it needs more time to audit. The IRS will ask you to sign a form extending the statute of limitations, usually for a year. If you don't sign, the IRS will send you a tax bill, usually based on unfavorable assumptions. Most tax advisers generally tell clients to agree to the extension. However, it's best to get some professional advice about your own situation. You may be able to limit the time or scope of the extension.

Assessing Your Situation

Figuring out the applicable statute of limitations that applies to your situation--and then waiting it out--can be nerve-wracking. An audit can involve targeted questions and requests of proof of particular items only. Alternatively, audits can also cover the waterfront, asking for proof of virtually every line item. Keeping good records can help. After a time--many people say seven years--you should be able to throw out records and receipts.

However, some records such as improvements to property that go into your basis, are exceptions and you should keep them forever. If you remodel your kitchen and sell your house 20 years later, the receipts for your remodeling job are still relevant to your tax return. It is also best to keep copies of your old tax returns forever. Here are some tips:

- Keep good records, and keep copies of all your past tax returns;
- Report all your income, and disclose your tax positions on your return, even if you are claiming the money isn't taxable, is taxable as capital gain, or whatever;
- Consider having your return professionally prepared;
- Report offshore accounts on both tax returns and FBARs, and make sure you file any other forms that could extend your statute to six years or forever;
- Avoid tax shelters and things the IRS counts as 'listed transactions' that can bring trouble; and
- If you have big tax issues about a particular issue--say a lawsuit recovery, casualty loss, etc., consider getting targeted tax advice for that item from a tax lawyer or CPA.

- If the IRS does contact you, consider getting professional advice. And don't ignore the IRS. Sometimes issues can be addressed easily if you do it carefully and timely.