



Robert W. Wood

THE TAX LAWYER

TAXES 5/09/2014

IRS Can Only Go Back 3 Years, Right? How About 10 Years Or Forever

[Comment Now](#)

In most cases, the IRS has three years to audit you after you file your return. If the IRS shows up after that, you may be able to say the statute of limitations has run. It's better than hunting for receipts.

But many special rules can extend the purgatory. The three years is doubled to six if you omitted more than 25% of your income. It's also doubled if you omitted more than \$5,000 of foreign income. Even worse, the IRS has no time limit if you never file a return.

Once taxes are assessed, whether on your tax return or by the IRS in a notice, there's a different time limit on IRS collections. That collection period is normally 10 years. But in one recent case, the IRS was able to be back 30? In [Beeler v. Commissioner](#), the Tax Court held Mr. Beeler responsible for 30 year-old payroll tax penalties. That may sound crazy, but sometimes, the IRS has a memory like an elephant. And it can come down like an elephant on top of you, too.

[Section 6672](#) of the tax code puts a 100% penalty on responsible persons who fail to withhold, or who withhold but fail to hand it over to the IRS. What's more, this penalty can be assessed against more than one responsible person. IRS can **collect** only once, but it can come after them all and see who coughs up the money first.

The IRS has numerous and complex rules to collect unpaid tax debts. The process includes contacting taxpayers through notices, telephone calls, and in person. The IRS has a large debt workload, one that has increased. However, the IRS has limited resources.

There's no time limit on fraud. Fraud is the IRS's greatest trump card. You might think the IRS might assert fraud simply to get unlimited time. Fortunately, though, the IRS has a high burden to show fraud. Here are other timing rules you should know.

Extend? The IRS may contact you (usually about two and a half years after you file), asking you to **extend** the statute. Most tax advisers say you should usually grant an extension. Some taxpayers say "no" or ignore the request. Either usually leads the IRS to send a notice assessing extra taxes. See [Should You Grant IRS More Audit Time?](#)

Amend? To amend a tax return, do it within three years of the original filing date. If your amended return shows an increase in tax, and you submit the amended return within 60 days before the three-year statute runs, the IRS only has 60 days after it receives the amended return to make an assessment. An amended return that does not report a net increase in tax does not trigger an extension of the statute.

Refunds. If you pay estimated taxes or have excess withholding but fail to file a return, you generally only have **two** years (not three) to get it back.

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.