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THE TAX LAWYER

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IRS Has 4,500 Guns, 5 Million Rounds Ammunition: Paying Taxes?

The IRS has a very hard job to do, especially now. But you might wonder about the IRS inventory of weapons. An official report says that at the end of 2017, the tax agency had 4,487 guns and 5,062,006 rounds of ammunition in its weapons inventory. So says [this report published by the Government Accountability Office](#). The IRS isn't the only agency with guns, of course. Many federal agencies are reviewed and assessed in the GAO study, with this not exactly page-turning title: [Purchases and Inventory Controls of Firearms, Ammunition, and Tactical Equipment](#) (GAO-19-175) (Dec 13, 2018). It was also noted on the influential TaxProf Blog. Some of the guns the IRS has are not for the faint of heart, including a few fully automatic guns. Yes, those are machine guns. Only the Criminal Investigation Division of the IRS gets to carry guns. Compared to seeing gun-toting IRS Agents at your door, a correspondence audit doesn't sound so bad.

One old audit report from the Treasury Inspector General for Tax Administration covering 2009 to 2011 said that [IRS Agents accidentally discharged their guns 11 times](#) during that time. That may not be a perfect safety record, although given the size of the IRS, it doesn't sound too bad. Interestingly, the old TIGTA report also says that IRS agents fired their guns *accidentally* more times than they did *intentionally*. Some of the misfires caused property damage or personal injury. A few defendants in criminal tax cases have tried to suppress evidence based on the IRS carrying guns. In [United States v. Adams](#), the First Circuit Court of Appeals affirmed Charles Adams' conviction for conspiracy to defraud the United States by

obstructing payroll tax collections and tax evasion. Mr. Adams was convicted despite his argument that the IRS agents carrying guns was not allowed by law. Mr. Adams was essentially treated as a tax protester, which is clearly a pejorative term. Even so, he isn't the first taxpayer to be unhappy about the IRS having weapons. In fact, an IRS business card can cause more heart palpitations than the CIA, FBI, or Department of Justice. You don't need to see a firearm to get weak in the knees.



There is a discrete part of the IRS that is [criminal](#), not civil. Like Special Agents of the FBI, the IRS Criminal Investigation Division uses the Special Agent terminology. If you are visited by an IRS Criminal Investigation Division Special Agent, you should consult with an attorney. You are not legally required to talk to them. In fact, the [Fifth Amendment to the U.S. Constitution](#) guarantees your right against self-incrimination. That means you can't be compelled to be a witness against yourself in a criminal case. You may believe that by answering a few simple questions you will not hurt yourself or your position--especially if you are just a witness. Yet speaking up might actually help the IRS build a criminal case against *you*. The IRS may (quite honestly) tell you that you are not the target of the investigation, but merely a witness. Even so, you are entitled to retain counsel. Besides, the IRS view of you may change.

In the early stages of IRS criminal investigations, a person may be told he or she is a witness. You may therefore think there is no harm in being

forthcoming, and that your cooperation will actually make it more likely that the IRS will appreciate you and leave you alone. However, as the investigation continues, a witness can become a target. Even if you are convinced you are merely a witness and will remain so, the U.S. Supreme Court has ruled that you have the right to assert your constitutional privilege against self-incrimination. See [*Bellis v. United States*](#).

If you are approached and questioned by a Special Agent, ask for his or her business card. Firmly but politely state that you do not want to answer any questions and that you will have your attorney contact the Special Agent. You can fully cooperate through your attorney. This may sound paranoid, but given the fluid nature of who is a witness and who is a target, even statements you think sound innocent may not be. Suppose you are asked whether you do business with Joe or know Sally. If you answer falsely, you may face felony charges. See [18 U.S.C. Sec. 1001](#). Plus, making a false statement can be considered evidence of an attempt to conceal other criminal conduct.

This is not legal advice. For tax alerts or tax advice, email me at Wood@WoodLLP.com.