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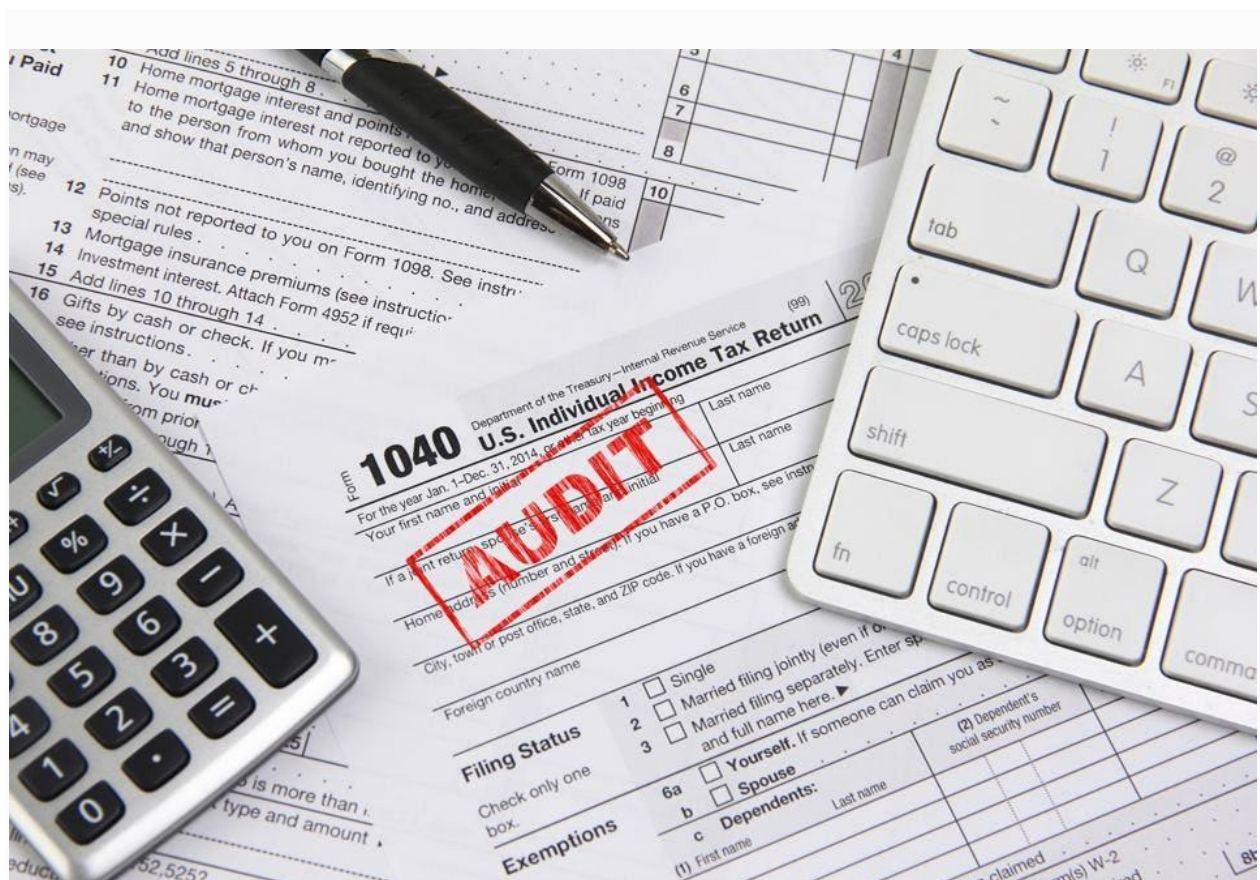


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In An IRS Audit, If You Don't Have Receipts, Here's A Workaround



As anyone who has been through a tax audit knows, the IRS wants to see receipts. But it is easy to misplace them. Is there any alternative to losing your audit over a lack of what the IRS calls substantiation? In one famous tax case, [Cohan v. Commissioner](#) a taxpayer *won* even though he didn't have

any. [George M. Cohan](#) was a Broadway pioneer with hits like “Give My Regards to Broadway” and “Yankee Doodle Boy.” His [statue](#) still stands in Times Square, though it is eclipsed by the bright lights and chaos.

Many a taxpayer has been saved by this case and what it represents. The IRS disallowed Cohan’s large travel and entertainment expenses because he didn't have receipts. He was a flashy guy and tended to pay in cash. And he wasn’t going to take no for an answer. So when the IRS denied all his deductions, he took the IRS to court. Receipts being the stock in trade of the tax system, the trial court upheld the IRS.

Again, Mr. Cohan wouldn’t take no for an answer and appealed to the Second Circuit. The Appeals Court held for Mr. Cohan and against the IRS. The Cohan rule allows taxpayers to prove by “other credible evidence” that they actually incurred deductible expenses. Mr. Cohan testified that he paid in cash, and others also supported Cohan and remembered big and expensive dinners. Of course, this is a tough way to prove expenses.

Not surprisingly, the Cohan Rule often doesn’t impress the IRS. You may have to go to court, and the argument doesn’t always work even there. Still, the IRS or a court may be convinced by oral or written statements or other supporting evidence. If you get over that hurdle and can make a reasonable approximation of the expenses, your tax position may be sustained despite your lack of documentation.

It isn't just business expenses that can be substantiated in this way. Even charitable contributions have been allowed under the Cohan Rule, although not in cases subject to special strict [substantiation requirements](#). The fact that some taxpayers may have trouble maintaining good records to show the IRS may actually have been helped by the IRS's own problems maintaining

evidence. Back in 2014, Rep. Steve Stockman of Texas introduced a bill he called the “The Dog Ate My Tax Receipts Act,” to allow us all to try out some excuses. Rep. Stockman said, “Taxpayers should be allowed to offer the same flimsy, obviously made-up excuses the Obama administration uses.”

The bill never went anywhere. But had it passed, it would have allowed taxpayers who do not provide documents requested by the IRS to claim that “the dog ate my tax receipts,” and numerous other silly sounding excuses. In reality, of course, you are always better off with good substantiation. Checks, receipts, invoices, and more are always helpful. Yet if you are willing to take the IRS to Tax Court, it is possible to win, and [some taxpayers beat the IRS, even without receipts](#)

In an old Seinfeld episode called the “[The Truth](#),” the IRS questioned Jerry about a \$50 charitable contribution to the people of Krakatoa for volcano relief. The charity turned out to be fake, courtesy of Kramer. As this episode revealed, worrying about an IRS audit isn’t fun, and trying to prove expenses isn’t either. The best advice? Save those receipts so you never have to argue the Cohan Rule.

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