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THE TAX LAWYER

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Man Convicted Over Threat To Kill IRS Agent---You Thought Your Audit Was Bad

No one thinks paying tax is fun. Being audited or chased for back taxes isn't either. Many tax collectors know there can be a kind of shoot the messenger mentality, especially when the IRS is trying to collect. That's one reason among many to hire a professional to handle your tax case. That way you won't say the wrong thing.

What's the *worst* thing you can say to the IRS? Well, make sure you don't threaten the IRS, not even in jest. In fact, no matter how frustrated you feel—even if you think what the IRS is doing is illegal—don't threaten an IRS Agent or his family.

In fact, doing so has to go down as the worst possible way to try to resolve a tax case. No one in his right mind would do this. Sure, taxes can make you crazy, but there's a limit to what the government will tolerate.

Andrew A. Calcione of Rhode Island was dealing with the IRS over his 2008, 2009 and 2010 tax debts. The asserted liability was big, over \$300,000. Mr. Calcione may even have believed he was getting unfairly hassled. But what was occurring happens in many if not most tax cases. The IRS needed consents to keep the statute of limitations open.



In April 2013, while working on an audit, the IRS Revenue Agent requested Mr. Calcione and his ex-wife to sign a consent form to extend the time for the IRS to make an assessment. Mr. Calcione signed the form but his ex-wife had not. The Revenue Agent left a voicemail message asking Mr. Calcione about returning the form.

In response, Mr. Calcione left two voicemail messages for the IRS Agent threatening to torture the Agent, rape and kill the Agent's wife, injure the Agent's daughter and then finally kill the Agent. He evidently forgot the maxim: [No Matter How Big Your Tax Bill, You Probably Shouldn't Threaten to Kill IRS Employees](#). The IRS Agent reported the calls to the authorities, who determined the voicemails were enough to charge Mr. Calcione.

Then he was prosecuted. And now, a federal judge has found Mr. Calcione [guilty of threatening assault and murder](#). Mr. Calcione is due to be sentenced in September, and could face up to twenty years. Of course, his tax debts don't go away either.

How long can the IRS audit, and what should Mr. Calcione have done? The IRS usually has three years after you file to audit. If you omit more than 25% of your income, the IRS gets six years. But frequently, the IRS says it needs more time to audit and asks you to sign a form extending the statute, usually for a year.

The IRS asks you to [extend the statute](#), as it did to Mr. Calcione and his ex-wife. Remember, joint tax returns involve two taxpayers. Mr. Calcione signed, which makes sense. In fact, most tax advisers say you should usually agree. If you say "no" or ignore the request, the IRS will assess extra taxes.

However, get some professional advice about your own situation. You may be able to limit the time or scope of the extension. If you file a false return under-report income or willfully fail to file, the

time limit is six years or in some cases even longer. The stakes go up too, including potential criminal charges and prison.

And when it comes to prison, unless you want to land there for a *very* long time, don't threaten to kill the IRS...or anyone else.

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.