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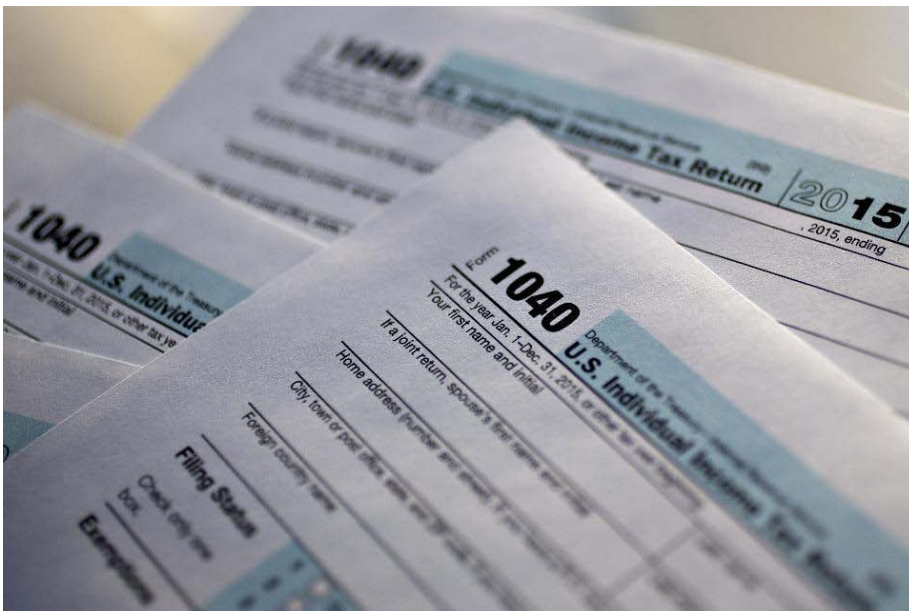
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New Excuse: 'Fear Of IRS Audit Made Me Cheat On My Taxes'

“My dog ate my homework” may sound good in grade school. “TurboTax made me do it” may work if you are [Timothy Geithner](#) trying to get confirmed as U.S. Treasury Secretary. But in between, what do you say to get the IRS off your back? A new academic paper says that [random tax audits cause people to cheat more in the future](#). Huh?

The paper is heavy going, but it still may turn some heads. It starts with the notion that governments and tax administrators rely on the premise that random audits *reduce* tax evasion. The fear of a random audit makes you truthful, the theory goes. Plus, if you undergo an audit, you are doubly careful next time. That’s the theory anyhow.



(Photographer: Andrew Harrer/Bloomberg)

Wrong, says the paper by Toronto tax law professor [Emily Ann Satterthwaite](#). The catchy title of this page-turner is: [The Dynamic Effects of Audits: An](#)

Experimental Assessment. Contrary to predictions, she says random audits *don't* deter cheating and actually induce MORE cheating. She calls it the “bomb crater” effect.

If this paper is right, there could be a new tax excuse: the entire IRS audit system made me cheat. Of course, it doesn't exactly sound convincing, does it? If you cheat on your taxes, file late or commit some other offense, it would be nice to have a better explanation. There are many [tax excuses](#), and some work better than others.

Unfortunately, there is no excuse to get you out of paying tax entirely. Some excuses can obviate penalties. Some will even avoid criminal liability. Relying on a professional tax adviser is one of the classic excuses. It is one of the most common way taxpayers use to establish “reasonable cause” for some kind of error. It works well, although you must meet certain minimum requirements. And sometimes there are [IRS penalties despite reliance on an adviser](#).

How about ‘my software made me do it?’ The [TurboTax defense](#) was made famous by former Treasury Secretary [Tim Geithner](#). His example prompted regular Joe taxpayers to try the TurboTax defense too. After a string of cases in which it failed, the Tax Court embraced it in [Olsen v. Commissioner](#). Mr. Olsen was a patent attorney who blamed his tax mistakes on his tax preparation software. He claimed that should excuse penalties and the Tax Court agreed.

Some excuses can be basic, perhaps too much so. Remember the “[I forgot](#)” defense popularized by Steve Martin on Saturday Night Live? It's unlikely to be effective. Mental or substance abuse problems? There's case law treating mental problems or substance abuse as a [defense](#) to criminal tax charges. Happily, few people are accused of [tax crimes](#). Yet many face tax penalties of one sort or another.

Apart from tax crimes, it can be frightening enough to have tax problems with significant [civil penalties](#). Many can be whoppers, including the 75% civil fraud penalty and the 100% trust fund recovery assessment. To help get you out of a tax jam, the claimed medical or psychiatric disability must be real and you need some paperwork to prove it.

But in appropriate cases, the IRS or courts will rely upon it. For example, an IT consultant and convicted fraudster was pretty effective in arguing against punishment for his tax crimes. He avoided going to jail by claiming that he [committed tax fraud because of his bipolar disorder](#).

Andrew Mottershead filed false tax returns claiming extra business expenses, including for lavish items. Tax officials let him off with a warning, but then Mr. Mottershead did it again, filing more false returns and running up outrageous expenses.

You guess it. Mottershead was prosecuted for a second time. He claimed he committed his crimes during manic episodes of bipolar disorder. The court believed him and sentenced him to a two-year suspended sentence. It clearly helped that the defendant was being treated for his condition.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not legal advice.