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# No Receipts For IRS? Key Tax Case Says They're Optional

Receipts are critical to good book-keeping and tax returns. But if you can't find one, contrary to popular belief, you are not out of luck thanks to a famous court case, [Cohan v. Commissioner](#). [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 amid all the bright lights and chaos. This may be an old case, but it is still good law, and many a taxpayer has been saved by it. The IRS has never liked the case, but like the statue, it still stands.

In the 1920s, the IRS disallowed Cohan's (very large) travel and entertainment expenses for lack of 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.

In 1930, the Appeals Court rocked the IRS back on its heels with the Cohan Rule. To this day, it is as an exception to stringent IRS record-keeping requirements. It 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.

The IRS computer crashes and the hunt for those long ~~destroyed~~ lost emails of Lois Lerner come to mind. More recently, the [IRS wiped another hard drive, defying a court order](#). In the aftermath of the Lois Lerner mess, 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 would allow taxpayers who do not provide documents requested by the IRS to claim one of the following reasons:

1. The dog ate my tax receipts.
2. Convenient, unexplained, miscellaneous computer malfunction.
3. Traded documents for five terrorists.
4. Burned for warmth while lost in the Yukon.
5. Left on table in Hillary's Book Room.
6. Received water damage in the trunk of Ted Kennedy's car.
7. Forgot in gun case sold to Mexican drug lords.
8. Forced to recycle by municipal Green Czar.
9. Was short on toilet paper while camping.
10. At this point, what difference does it make?

The resolution says that the "IRS must allow taxpayers the same lame excuses for missing documentation that the IRS itself is currently proffering." Perhaps every taxpayer has looked for receipts at one time or another. Seinfeld fans may remember an episode called the "[The Truth](#)," which aired Sept. 25, 1991. The IRS questioned Jerry about a \$50 charitable contribution to the people of Krakatoa. The IRS normally doesn't require extra substantiation of charitable donations less than \$250, so Jerry's check or bank statement would have sufficed.

But as this show revealed, worrying about an IRS audit isn't fun. Trying to prove expenses isn't either. The best advice? Save those receipts so you never

have to argue the Cohan Rule.

*For alerts to future tax articles, email me at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com). This discussion is not legal advice.*