IRS Problems for Survivors: Audit / Examination

What is an audit?

An audit is an examination by IRS of a taxpayer's accounts, documents, and other information to determine the correctness of a tax return filed by the taxpayer. Most audits are done by correspondence, which means that IRS sends the taxpayer a letter requesting documentation of certain items on the taxpayer's return.

Leah's story...

In Leah's case, Leah received such a letter from IRS after she filed her 2013 tax return. IRS was requesting that she document that she was entitled to claim her children as dependents and that she qualified for the CTC, ACTC, and the EITC which made up most of her refund.

IRS was also requesting documentation that she qualified to choose the filing status Head of Household, which required her to prove, among other things, that she and John had lived apart for the last six months of 2013. The letter Leah received from IRS contained examples of the type of paperwork IRS expected her to provide as documentation.

Practice Tip
A taxpayer has 30 days to provide the requested documentation to IRS. The taxpayer may ask for an extension of time to provide the documents. Documents must be mailed or faxed to the IRS examination unit that issued the audit notice. Each document submitted should have the taxpayer's Social Security number on each page.

What proof may be required?

Survivors, particularly those who have recently left their abuser, are often asked to provide proof:

- of their relation to the children they are claiming,
- of the children’s ages,
- that those children lived with them for more than half the tax year, and
- that the survivor did not reside with their spouse during the tax year.

Many taxpayers have great difficulty locating documents to prove they are entitled to use Head of Household filing status and/or that they can claim their children as dependents as well as claim certain child tax credits.

Survivors, in particular, may have difficulty if they do not have access to records. Survivors who have moved frequently or recently and/or who may, due to abuse, have been unable to hang on to important paperwork, may not have access to the proof requested by IRS.

Below are examples of the type of documents that are most likely to persuade IRS that the taxpayer was entitled to claim a child or to use the head of household filing status:

- Divorce or legal separation decrees.
- Leases that cover the tax year under audit and that list the residents of the premises.
- School and day care records that list the child’s name and address and dates of attendance.
- Dated medical records that list the child’s name and address.
- Post-marked envelopes that are addressed to the child.
- Dated welfare department records listing the child’s name and address.
- Court records listing the names of the child and the parents in adoption, paternity, and other actions.
- Birth certificates and other records documenting relationships.

Can refunds be delayed?

In the past, IRS generally did not audit a taxpayer’s return until after a refund had been issued. A taxpayer who was unable to provide the required documentation would end up owing some or all of the refund amount to IRS, in addition to interest and possible penalties.

Now, it is more common for IRS to freeze the portion of the refund that is composed of refundable tax credits, such as the EITC, until the audit is complete. Unfortunately, IRS will often take many months to issue an audit decision after receiving a taxpayer’s documents.
Because many survivors depend upon prompt receipt of their full tax refund in order to make ends meet, this delay can cause significant hardship.

**How will the audit end?**

IRS audits may end in **three ways**:

1. IRS can issue a no change letter indicating that because the taxpayer has substantiated all of the items that were being reviewed, IRS has **accepted the return as filed**.
2. An audit may conclude with an agreement where IRS **proposes changes** and the taxpayer agrees with those changes. In that case, the taxpayer will be asked to sign the exam report or a form.
3. If the taxpayer does not agree with the changes, IRS will generally **issue a Notice of Deficiency** which gives the taxpayer 90 days to file a petition in the U.S. Tax Court. The U.S. Tax Court’s website, [www.ustaxcourt.gov](http://www.ustaxcourt.gov), contains information, including forms and a video, that can be used by a self-represented taxpayer to initiate a challenge to an IRS decision in court.

**Practice Tip**

There are steps that survivors can take in advance of an audit to improve their chance of getting through an audit without any adverse changes to their tax return.

The most important step is to make sure that the records of agencies and other entities that provide services to or work with survivors and their families reflect the correct address of the survivor and any children or other dependents that the survivor may claim.

Too often taxpayers are unable to document that their dependents live with them because they have failed to provide corrected or updated addresses to schools, welfare agencies, and medical providers.

**Get help**

Survivors and other taxpayers are usually best served by having legal representation during an IRS audit. Contact us if you (or someone you know) need help resolving a tax problems with the IRS. We may be able to provide FREE legal help!

The ILS Low Income Taxpayer Clinic is proud to partner with the Center for Survivor Agency & Justice. Together, we seek to provide education, representation, and advocacy to survivors on a range of consumer-finance issues, including taxes. The content of this page is adapted from a chapter to an upcoming guidebook for survivors published by the CSAJ, the Guidebook on Consumer and Economic Civil Legal Advocacy for Survivors.