

FIVE KEY STEPS

TO HANDLE

AN IRS EXAM LIKE A PRO

by Eric Green & Tax Rep Network

STEP # 1

THE IRS EXAM PROCESS

Few Taxpayers are cheered by the arrival of a letter by the IRS announcing that they, or more specifically their tax return, will be the subject of an examination. Usually this starts the panic, the calls to the accountant as to why they are being targeted, and who is going to handle the auditor. Sometimes it can be worse: real fear takes hold about whether the IRS will discover those expenses that were claimed there is no support for, or worse, that the taxpayers have been cheating on their taxes for years!

An IRS examination can be scary, but it can also be managed. The critical factor to having a smooth audit with the best result possible is to do the work and make sure you as the representative are prepared. This means spending the time to review everything and assisting the clients to obtain any missing documentation and piece things that are missing together. It means doing the taxpayer interview BEFORE the auditor is sitting there with you in the room. Being prepared also means being ready to deal professionally with the auditor.

The way we learned to handle audits was by doing them and learning from the IRS Examiner across the table and from the experience of doing them from start to finish. Today audits are still being done, but more than 70% are done by automation through correspondence. The chance to meet with an actual trained auditor is small, you will need to know how to handle a process that is mostly run by computers and algorithms, and so taxpayers need help navigating the exam.

With fewer audits being done in person, the need for trained representation has never been greater. Taxpayers need someone who understands the process and who knows what moves to make when things do not go as planned.

STEP # 2

THE AUDIT NOTICES

We think it best that you as the practitioner be familiar with the various notices and letters used in an IRS examination. We have therefore included the following exhibits:

1. The Examination Opening Letter 2205-A

This is the letter that informs the taxpayer that they have been selected for an examination. It advises them that they can be represented by a Power of Attorney (meaning a CPA, EA, or attorney), and that they should begin gathering their records in preparation for the examination.

2. The Information Document Request (“IDR”) Form 4564

An IDR is where the IRS requests documentation and information it perceives is necessary to review the tax return. It is not unusual for there to be several, and sometimes many, IDRs provided to taxpayers and their representative throughout the audit process.

3. Report of Income Tax Examination Changes Form 4549

This is the report that the IRS will issue to the taxpayer and his or her representative to show the proposed changes and the tax impact of those changes, including penalty and interest.

4. Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment Form 870

This form is a summary of the proposed changes and allows the Taxpayer(s) to sign and consent to the changes and immediate assessment.

5. Letter 950 – “Thirty Day Letter”

This letter provides the taxpayer with the opportunity to request an Appeals hearing with the Independent office of Appeals if he or she disagrees with the proposed audit changes.

6. Notice of Deficiency – “Ninety-Day Letter”

The Notice of deficiency is the final assessment of the changes and allows the taxpayer ninety-days to file their petition in the United States Tax Court. If the ninety-days passes without the filing in the United States Tax Court, then the assessment will be final and the taxpayer will receive a billing notice from the IRS. Failure to pay that or arrange for a collection alternative will result in Collection Enforcement beginning.

For your convenience, see the sample documents at the end of the report.

STEP # 3

PREPARING THE CLIENT FOR THE AUDIT

Step number one is usually calming the client down. Clients tend to become stressed out about the impending audit. Now, sometimes that stress is legitimate because they have something they have been hiding. Criminals aside, often the client's stress comes from the unknown and the terrible reputation tax examinations have in society and the media.

The client usually calms down when you explain the process to them and begin reviewing their documents.

Clients feel better as we move through the process of preparation, and they see there is little for them to be concerned about, and that you at least seem to know what you are doing.

STEP # 4

THE CLIENT'S RECORDS

Hopefully the client's records are together in one place and ready to go. Unfortunately, that is usually not the case, and often clients need time and help to gather their documents. Sometimes third parties need to be contacted and records need to be reconstructed.

The key to a good outcome with an audit is preparation.

If records are missing and/or incomplete there is an opportunity to reconstruct them and get them to the IRS examiner. It is therefore critical that this process begin immediately when the audit notice is received.

The IRS will generally request certain documents from the taxpayer in its letter (Form 4564) called an Information Document Request, or "IDR." See the IDR Exhibit. Experience tells us that, though the IRS will start with these documents, it is unlikely that an office audit or field audit will only cover those issues. Our experience is that the examiner will almost certainly begin looking at all the items on the tax return. Because of this, it is typically good to have the client gather everything. Explain that though the IRS will start with the few listed items, it is almost 100% certain to expand, and if there are any issues – like missing documents – that the taxpayer obtain the back-up necessary to support those items.

STEP # 5

THE INTERVIEW

The IRS examiner will want to interview the taxpayer. This is usually a bad idea. Taxpayers tend to try and explain things and say stuff the auditor often misinterprets. With a 2848 we are the Power of Attorney and will handle the exam.

However, that assumes we can answer the questions. Therefore, it is critical we are prepared for the exam. The typical questions asked by an examiner include the following:

- What are your principal products?
- How long have you been in business?
- Who are your principal customers?
- Do you have any other source of income?
- How are sales handled?
- Do you use cash or accrual method?
- How are you recording?
- If accrual, do you have a list of accounts payable and receivable?
- How are prices set?
- What is your markup percentage? (Ask for markup % on each major product)
- How often is inventory taken, and by whom?
- Who keeps the books?
- How did you learn recordkeeping?
- What bank accounts do you have?
- Do you deposit everything? Who makes the deposits?
- How do you get cash to spend?
- Check to cash?
- How are personal withdrawals handled?
- Do you have a safe deposit box?
- How do you record expenses?
- How were the return figures arrived at?
- How are the expenses paid?
- Do you have cash on hand?
- How much?
- Where is it located?

- Do you have nontaxable income such as pensions, loans, gifts, inheritances?
- Do you have investments such as stocks or real estate?
- Do you have any major Expenses such as loan repayments?
- Do you have any asset acquisitions? When? How?
- Have you had any schooling?

The purpose of the interview is to secure an overall financial picture of the taxpayer and to familiarize the auditor with the business activities. The auditor wants to talk to the taxpayer at the beginning because they know the taxpayer will be more responsive at this time than later in the audit, and answers will be less biased because no issues are at stake.

IN CONCLUSION...

With proper preparation you will be able to navigate the client through the audit process, help them gather records and prepare everything for the IRS review, and get the case resolved quickly and efficiently.

A handwritten signature in blue ink, appearing to be 'E. J. Y.', with a long horizontal flourish extending to the right.



ABOUT ERIC L. GREEN, ESQ.

Eric is a managing partner in Green & Sklarz LLC, a boutique tax firm with offices in Connecticut and New York. The focus of Attorney Eric L. Green's practice is civil and criminal taxpayer representation before the Department of Justice Tax Division, Internal Revenue Service and state Departments of Revenue Services. He is a frequent lecturer on tax topics for many national organizations, including Insightful Accountant, CCH, the NAEA, the NATP, the ABA Tax Section and the Connecticut Society of CPAs. Attorney Green has served as adjunct faculty at the *University of Connecticut School of Law*. He was the author and lecturer of the *CCH IRS Representation Certificate Program*, and has served as a columnist for *CCH's Journal of Practice & Procedure*. He is the founder of *Tax Rep LLC* which coaches accountants and attorneys on building their own IRS Representation practices, and is the host of the weekly *Tax Rep Network Podcast*.

Mr. Green is the author of *The Accountant's Guide to IRS Collection*, *The Accountant's Guide to Resolving Tax Debts* and *The Accountant's Guide to Resolving Payroll Tax Debts*. He is a contributing author for *Advocating for Low Income Taxpayers: A Clinical Studies Casebook, 3rd Edition*, and has also been quoted in *USA Today*, *Consumer Reports*, *The Wall Street Journal's Market Watch*, *TheStreet.com*, *The Wall Street Journal* and *CreditCard.com*.

Prior to practicing law Attorney Green served as a senior tax consultant for KPMG and Deloitte & Touche.

Attorney Green was the 2010 Nolan Fellow of the American Bar Association and has served as Chair of the American Bar Association's Closely Held Businesses Tax Committee. Attorney Green is a past Chair of the Executive Committee of the Connecticut Bar Association's Tax Section. Eric is a Fellow of the *American College of Tax Counsel* ("ACTC").

Attorney Green is also a member of the Connecticut, Massachusetts and New York Bar Associations, as well as the American Bar Association. Attorney Green is admitted to practice in Massachusetts, New York and Connecticut Superior Courts, the United States Tax Court, The Federal Court of Claims and the Federal District Court for Connecticut. Attorney Green received his Bachelor of Business Administration degree in Accounting with a minor in International Business from Hofstra University and is an honors graduate from New England School of Law. He earned a Masters of Laws in Taxation (LL.M.) from Boston University School of Law.

Green & Sklarz LLC
One Audubon Street, 3rd Floor, New Haven, CT 06511
Phone (203) 285-8545 Fax (203) 286-1311
egreen@gs-lawfirm.com



Department of the Treasury
Internal Revenue Service
Small Business and Self-Employed

Street Address
Group-XXXX
City, State Zip

Taxpayer Name
Street Address
City, State Zip

Date:
April 5, 20__
Taxpayer Identification Number:
XX-XXXXXXX
Form:
1120
Tax period(s):
December 31, 20__
Response date:
April 15, 20__
Person to contact:
Auditor Names
Contact hours:
8:00am to 2:30pm
Contact telephone number:
XXX-XXX-XXXX
Contact fax number:
(877) XXX-XXXX
Employee Identification number:
0XXXXXX

Dear Taxpayer Name:

Your federal return for the period(s) shown above was selected for examination.

What you need to do

Please call me on or before the response date listed at the top of this letter. You may contact me at the telephone number and times provided above.

What we will discuss

During our telephone conversation, we will discuss:

- Items on your return that I will be examining.
- Types of documents I will ask you to provide.
- The examination process.
- Any concerns or questions you may have.
- The date, time and agenda for our first meeting.

The issues listed below are the preliminary items identified for examination. During the course of the examination, it may be necessary to add or reduce the list of items. If this should occur, I will advise you of the change.

- Other deductions (not listed)
- Returns & allowances
- Gross receipts or sales
-
-
-

By

Someone may represent you

You may have someone represent you during any part of this examination. If you decide you want representation, the representative you authorize will need a completed Form(s) 2848, *Power of Attorney and Declaration of Representative*, before we can discuss any of your tax matters.

If you choose to have someone represent you, please provide a completed Form 2848 by our first appointment. You can mail or fax the form to me or have your representative provide it at the first appointment, if you won't be present. You can obtain Form 2848 from our office, from our web site, www.irs.gov or by calling (800) 829-3676.

If you filed a joint return, you and your spouse may attend the examination. If you and/or your spouse choose not to attend with your representative, you must provide completed Form(s) 2848. You should provide a separate Form 2848 for each spouse if you filed jointly even if you use the same representative.

Your rights as a taxpayer

We have enclosed Publication 1, *Your Rights as a Taxpayer* and Notice 609, *Privacy Act Notice*. The Declaration of Taxpayer Rights found in Publication 1 discusses general rules and procedures we follow in examinations. It explains what happens before, during, and after an examination, and provides additional sources of information.

A video presentation, "Your Guide to an IRS Audit," is available at <http://www.irsvideos.gov/audit>. The video explains the examination process and will assist you in preparing for your audit.

Thank you for your cooperation and I look forward to hearing from you on or before the response date provided above.

Sincerely yours,

Auditor Name
Internal Revenue Agent

Enclosures:
Publication 1
Notice 609

Rg. 7

Form 4564 (Rev. September 2006)	Department of the Treasury – Internal Revenue Service Information Document Request	Request Number 0001
To: (Name of Taxpayer and Company Division or Branch) Taxpayer Name		Subject Initial IDR
Please return Part 2 with listed documents to requester identified below		SAIN number Submitted to: Taxpayer Name
		Dates of Previous Requests (mmddyyyy)

Description of documents requested
Tax Period(s): 20__12

Provide names, addresses of shareholders and corporate officers

Provide a listing of employees and corporate officers and what their roles and responsibilities include

History of business and brief summary of business operations

Books of Original Entry

Electronic Books and Records

If your company uses **QuickBooks** please provide the following:

Year-end work papers and reports:

Worksheet (Tax Grouping Statement) reconciling the QuickBooks electronic books and records to the tax return for the tax year ending 12/31/20__.

Adjusting journal entries and closing entries for the tax year ending 12/31/20__.

A copy of the original electronic backup file of the QuickBooks books and records that includes the period from 1/1/20__ through 12/31/20__. This copy should not be an altered version of the QuickBooks data but rather a copy of the original electronic backup file.

The QuickBooks backup file should include any changes to the data entered after year end and should have a file extension of QBB. The backup file can be provided on a CD, DVD, or thumb/jump drive.

The QuickBooks administrator's user name and password for the backup file requested in item 2 above. Please note that you may temporarily change the administrator's password before copying the electronic backup file for the IRS in response to this IDR; then you may change the password back to the original "standard" one within your main QuickBooks working file.

The Version (i.e., year) and the Edition (e.g., Pro, Premier, Enterprise Solutions) of QuickBooks used to create the backup file.

Information due by _____ At next appointment Mail in

From:	Name and Title of Requester	Employee ID	Date (mmddyyyy)
	Auditor name, Internal Revenue Agent	number xxxxxx	
	Office Location: Street Address Group- City, State Zip		Phone: xxx-xxx-xxxx Fax: (877) xxx-xxxx

Pg 3

Form **4549**
(January 2019)

Department of the Treasury-Internal Revenue Service

Report of Income Tax Examination Changes

Name and address of taxpayer Taxpayer		Taxpayer identification number XXX-XX-XXXX		Return form number 1040
STREET ADDRESS CITY CT ZIP CODE		Person with whom examination changes were discussed.	Name and title Taxpayer Name	
1. Adjustments to income	Period Ended 12/31/2013	Period Ended 12/31/2014	Period Ended 12/31/2015	
a. Taxable Interest	481.00	1,360.00		
b. Sch E-Inc/Loss-Partnership/S Corps-Passve/Non-Passve	12,272.00	17,811.00	(1,136.00)	
c. Pensions and Annuities	22,410.00	13,290.00		
d. Sch C1 - Gross Receipts or Sales	116,392.00	81,251.00	78,863.00	
e. SE AGI Adjustment	(8,223.00)	(5,740.00)	(5,572.00)	
f. Standard Deduction	(6,100.00)	(6,200.00)	(6,300.00)	
g.				
h.				
i.				
j.				
k.				
l.				
m.				
n.				
o.				
p.				
2. Total adjustments	137,232.00	101,772.00	65,855.00	
3. Taxable income per return or as previously adjusted	0.00	0.00	0.00	
4. Corrected taxable income	137,232.00	101,772.00	65,855.00	
Tax method	TAX RATE	TAX RATE	TAX TABLE	
Filing status	Married Separate	Married Separate	Married Separate	
5. Tax	33,443.00	22,120.00	12,263.00	
6. Additional taxes/Alternative minimum tax				
7. Corrected tax liability	33,443.00	22,120.00	12,263.00	
8. Less credits				
a.				
b.				
c.				
d.				
9. Balance (line 7 less lines 8a through 8d)	33,443.00	22,120.00	12,263.00	
10. Plus other taxes				
a. Self Employment Tax	16,446.00	11,480.00	11,143.00	
b. Net Investment Income Tax	18.00			
c.				
d.				
11. Total corrected tax liability (line 9 plus lines 10a through 10d)	49,907.00	33,600.00	23,406.00	
12. Total tax shown on return or as previously adjusted	0.00	0.00	0.00	
13. Adjustments to:				
a.				
b.				
c.				
14. Deficiency-Increase in tax or (overassessment-decrease in tax) (line 11 less line 12 adjusted by lines 13a through 13c)	49,907.00	33,600.00	23,406.00	
15. Adjustments to prepayment credits - increase (decrease) See Attached	2,181.00	555.00		
16. Balance due or (overpayment) - (line 14 adjusted by line 15) (excluding interest and penalties)	47,726.00	33,045.00	23,406.00	

The Internal Revenue Service has agreements with state tax agencies under which information about federal tax, including increases or decreases, is exchanged with the states. If this change affects the amount of your state income tax, you should amend your state return by filing the necessary forms.

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income you earned and do not pay the required tax. The IRS may order backup withholding (withholding of a percentage of your dividend and/or interest payments) if the tax remains unpaid after it has been assessed and four notices have been issued to you over a 120-day period.

Name of taxpayer TAXPAYER NAME	Taxpayer identification number XXX-XX-XXXX		Return form number 1040
17. Penalties, additions to tax, and additional amounts -- IRC sections	Period Ended 12/31/2013	Period Ended 12/31/2014	Period Ended 12/31/2015
a. Delq-IRC 6651 (a) (2)	11,931.50	8,261.25	5,149.32
b. Delq-IRC 6651 (f)	34,601.35	23,957.63	16,969.35
c. Estimated Tax-IRC 6654	852.65	592.29	421.54
d.			
e.			
f.			
g.			
h.			
i.			
j.			
k.			
l.			
m.			
n.			
18. Total penalties, additions to tax, and additional amounts	47,385.50	32,811.17	22,540.21
19. Summary of taxes, penalties and interest			
a. Balance due or (overpayment) taxes - (line 16, page 1)	47,726.00	33,045.00	23,406.00
b. Penalties and additions (line 18) - computed to 11/22/2019	47,385.50	32,811.17	22,540.21
c. Interest* (IRC § 6601) - estimated and computed to 11/27/2019	20,949.09	12,391.63	7,302.16
d. Amount due or (refund) - (sum of lines a, b, and c)	116,060.59	78,247.80	53,248.37

*Interest, as provided by law, will be charged on any unpaid amount until it is paid in full.

Other information

Examiner's name AUDITOR NAME	Employee ID XX-XXXXX	Office CITY, STATE
Examiner's signature		Date 11/22/2019

Consent to Assessment and Collection- I do not wish to exercise my appeal rights with the Internal Revenue Service or to contest in the United States Tax Court the findings in this report. Therefore, I give my consent to the immediate assessment and collection of any increase in tax and penalties, and accept any decrease in tax and penalties shown above, plus additional interest as provided by law. It is understood that this report is subject to acceptance by the Area Director, Area Manager, Specialty Tax Program Chief, or Director of Field Operations.

Note: If a joint return was filed, BOTH taxpayers must sign

Signature of taxpayer	Date	Signature of taxpayer	Date
By	Title		Date

Form 870 (Rev. March 1992)	Department of the Treasury—Internal Revenue Service Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment	Date received by Internal Revenue Service
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Names and address of taxpayers <i>(Number, street, city or town, State, ZIP code)</i> TAXPAYER NAME STREET ADDRESS CITY, STATE ZIP	Social security or employer identification number XXX-XX-XXXX
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Increase (Decrease) in Tax and Penalties

Tax year ended	Tax	Penalties			
		Delq - IRC6651(a)(2)	Delq - IRC6651(f)	Est Tax-IRC 6654	
201312	\$47,726.00	\$11,931.50	\$34,601.35	\$ 852.65	
201412	\$33,045.00	\$ 8,261.25	\$23,957.63	\$ 592.29	
201512	\$23,406.00	\$ 5,149.32	\$16,969.35	\$ 421.54	

(For instructions, see back of form)

Consent to Assessment and Collection

I consent to the immediate assessment and collection of any deficiencies *(increase in tax and penalties)* and accept any overassessment *(decrease in tax and penalties)* shown above, plus any interest provided by law. I understand that by signing this waiver, I will not be able to contest these years in the United States Tax Court, unless additional deficiencies are determined for these years.

YOUR SIGNATURE HERE →		Date
SPOUSE'S SIGNATURE →		Date
TAXPAYER'S REPRESENTATIVE HERE →		Date
CORPORATE NAME →		
CORPORATE OFFICER(S) SIGN HERE →	Title	Date
	Title	Date

Internal Revenue Service
150 Court Street 5th Floor
New Haven, Connecticut 06510

Date: May 1, 2018

Department of the Treasury

Taxpayer Identification Number:

XX-XXXXXXX

Form:

1040

Tax Period(s) Ended and Deficiency Amount(s):

2013 \$116,060.59

2014 \$78,247.80

2015 \$53,248.37

TAXPAYER'S NAME
TAXPAYER'S ADDRESS
CITY, STATE ZIP

Person to Contact:

Auditor's Name

Contact Telephone Number:

203-492-XXXX

Employee Identification Number:

100XXXXXX

Last Date to Respond to this Letter:

June 1, 2018

Dear Mr. TAXPAYER,

We have enclosed an examination report showing proposed changes to your tax for the period(s) shown above. Please read the report, and tell us whether you agree or disagree with the changes by the date shown above.

If you agree with the proposed changes...

1. Sign and date the enclosed agreement form.
2. Return the signed agreement form to us.
3. Enclose payment for tax, interest and any penalties due. Make your check or money order payable to the **United States Treasury**. You can call the person identified above to determine the total amount due as of the date you intend to make payment.
4. After we receive your signed agreement form, we will close your case.

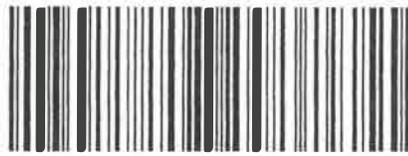
If you pay the full amount due now, you will limit the amount of interest and penalties charged to your account. If you agree with our findings, but can only pay part of the bill, please call the person identified above to discuss different payment options. We may ask you to complete a collection information statement to determine your payment options, such as paying in installments. You can also write to us or visit your nearest IRS office to explain your circumstances. If you don't enclose payment for the additional tax, interest, and any penalties, we will bill you for the unpaid amounts.

If you don't agree with the proposed changes...

1. You may request a meeting or telephone conference with the supervisor of the person identified in the heading of this letter. If you still don't agree after the meeting or telephone conference, you can:



Department of the Treasury
Internal Revenue Service
310 LOWELL ST
ANDOVER MA 01810-4544



0000 0000 0000 0000 0000 XX

000470.836151.516524.21233 2 AB 0.408 1272

TAXPAYER'S NAME
TAXPAYER'S ADDRESS
CITY, STATE ZIP



Notice CP3219A
Tax year 2015
Notice date March 19, 2018
Social security number [REDACTED]
AUR control number 70055-0016
To contact us Phone 1-800-829-XXXX
Fax 1-877-XXX-XXXX
Last date to petition June 18, 2018
Tax Court
Page 1 of 10



000470

Notice of Deficiency Proposed increase in tax and notice of your right to challenge

We have determined there is a deficiency (increase) in your 2015 income tax based on information we received from third parties (such as employers or financial institutions) that doesn't match the information you reported on your tax return. See below for an explanation of how this increase was calculated. This letter is your NOTICE OF DEFICIENCY, as required by law.

If you disagree

You have the right to challenge this determination in U.S. Tax Court. If you choose to do so, you must file your petition with the Tax Court by June 18, 2018. This date can't be extended. See below for details about how and where to file a petition.

If you agree

You can pay now or receive a bill. See the section below titled "If you agree with the proposed changes, you can pay now or receive a bill."

Summary of proposed changes

Increase in tax (deficiency)	\$185,410
Substantial tax understatement penalty	\$37,082

If you want to resolve this matter with the IRS

You may be able to resolve this matter without going to the U.S. Tax Court if you contact us directly. See the "You may be able to resolve your dispute with the IRS" section below.

If you want assistance

You may be able to receive assistance from a Low Income Taxpayer Clinic or from the Taxpayer Advocate Service. See the "Additional information" section below.

You have the right to petition the Tax Court

You have the right to challenge our deficiency determination, including penalties, before making any payment by filing a petition with the U.S. Tax Court. You must file your petition within 90 days (or 150 days if the notice is addressed to a person outside of the United States) from the date of this letter, which is **June 18, 2018**. The Tax Court can't consider your case if the petition is filed late. If you decide to file a petition, send that petition to the following address:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

Continued on back...