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Tax Alert



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What To Do If You Get An IRS Summons

With the exception of a refund check, any IRS correspondence is stressful. In fact, some people are so stressed they can't even open it. But when a simple request for substantiation or documents looks like legal process, stress levels go higher still.

Ignoring IRS requests is dangerous and expensive. Usually the IRS asks for information in a memo called an [Information Document Request, Form 4564](#), also known as an "IDR." See [What To Give IRS In An Audit](#). You are under no legal obligation to respond but generally should, since otherwise the case will escalate.



(Photo credit: mskogly)

When the IRS issues a summons you can comply, refuse, ignore it or go to court and attempt to quash it by showing you have legitimate legal reasons not to disclose the information. If you refuse or ignore it, the Justice Department can get a court order to enforce it. If you **still** refuse you could face sanctions for criminal or civil contempt.

A summons to hand over books, records or other data is more potent than an IDR since it carries the threat of court enforcement. The mere fact that the IRS issues a summons rather than an IDR sends a stern

message. A summons ups the ante, showing the IRS is playing tough and is willing to go to court.

What grounds can you cite for not complying? Common grounds are attorney-client privilege or work product protection, but standards are high. The IRS uses its summons power frequently today, and court fights are becoming common. According to the U.S. Taxpayer Advocate Service, there were 44 such disputes in 2005.

By 2011, the number ballooned to 132. See [IRS uses summons to pry info out of wealthy companies](#). That made summons cases one of the hottest types of tax litigation. Was it successful for the IRS? You bet.

In fact, the Taxpayer Advocate says the IRS won over 90% of its summons cases. With that many cases litigated, many more were probably resolved short of litigation. Whenever you encounter an IRS summons, consider getting legal advice.

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