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Can The IRS Access Your Emails?



Image via sanfranciscosentinel

Mostly, the answer is no. The IRS can certainly ask you to turn over your emails voluntarily. You may even have an interest in doing so if they prove your deductions. You also might want to hand them over to prove you weren't behind some tax scam the IRS is pursuing.

But if push comes to shove, the IRS is unlikely to be able to get your emails from your Internet Service Provider (ISP). There's been recent focus on this question after the IRS tried to get emails from an ISP. An IRS Revenue Officer contacted the ISP and asked for all emails from the last two years.

The IRS hoped the emails would enable it to figure out where tax credit money had been sent. The ISP refused to comply with the IRS's request, citing the [Electronic Communications Privacy Act of 1986](#). This law requires the government to have a warrant to obtain e-mails from the last six months.

No warrant is required for emails that are older than that. When the ISP said no even to producing the older emails, the Revenue Agent went up the IRS chain of command to the IRS General Counsel for help.

You may find it surprising that the IRS agreed the provider didn't have to turn over the emails. In fact, the IRS said that was true for emails older than six months too. See [IRS Chief Counsel Advice 201141017](#). Under

the [Stored Communications Act](#), the government (including the IRS) can look at your emails without a warrant as long as they are six months back or older.

But at least one court decision says the law is unconstitutional, infringing on your right to be free from unreasonable search and seizure. See [United States v. Warshak](#). There, a judge ruled the law was unconstitutional. In that case, the feds seized over 20,000 emails from [Steven Warshak's](#) ISP. This violated Warshak's [Fourth Amendment](#) right to be protected from unreasonable search and seizure.

The judge declared the portion of the Stored Communications Act allowing this disclosure to be unconstitutional. The IRS evidently plans to adhere to the decision nationally. The IRS can issue subpoenas and an IRS investigation can be pretty daunting. But they can't issue a search warrant unless it is a [criminal tax case](#).

The [Criminal Investigation Division](#) of the IRS has the power to issue a search warrant. It must have a reasonable belief that a crime has been committed and evidence of probable cause that records or other evidence of the crime will be found at the location desired to be searched.

For more, see:

[IRS Chides Collector For Going After Tax Cheat's E-mail Without A Warrant](#)

[IRS Chief Counsel Advises on E-mail Content Summons in Collection Case](#)

[Can The Government Seize Your Email Without A Warrant? You'll Be Surprised](#)

[Aging 'Privacy' Law Leaves Cloud E-Mail Open to Cops](#)

[Sixth Circuit Rules that Emails Protected from Warrantless Searches](#)

[IRS Criminal Investigations On Rise](#)

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