



Robert W. Wood THE TAX LAWYER

Sep. 14 2010 - 9:04 am |

Can IRS Apologize For Frequent Audits?

Tax cases are about money, but not *solely* money. You may take fairness and policy considerations into account when choosing to pay or fight a tax bill. Some taxpayers even make emotion a part of their tax case. That was so for Keith Robert Caldwell, audited repeatedly over alimony payments he made to his ex-wife. Caldwell's tax cases were colorful, and some of the relief he requested was unusual. (See [Caldwell v. Comm'r](#), T.C. Summ. Op. 2009-169; [Caldwell v. Comm'r](#), T.C. Summ. Op. 2008-77.) He once asked the Tax Court to award him \$100,000 of litigation expenses for unjustified audits—tax-free!

But an inveterate do-it-yourselfer, Caldwell was representing himself, so the court said he was just seeking compensation for his own distress dealing with auditors. Caldwell didn't bring his requests in the proper format and didn't prove a single penny of legal expense. Caldwell also wanted a written apology from the IRS. In fact, an "I'm sorry, and I won't audit you again" signed by the Commissioner of Internal Revenue himself would do nicely. The IRS actually had to file papers in Tax Court saying you can't make the IRS apologize, and the Tax Court agreed.

While no one likes an audit, there are established procedures when one comes on the heels of a prior audit in which you received a "no change"

letter. If your return was examined for the same items in either of the two previous years and no change was proposed, you may be able to get a pass, but you have to ask the IRS. See [IRS Publication 556](#). If you didn't receive a no change letter in the prior audit, you're fair game. That means you have to produce receipts and make the best of it. Regarding the possibility you may not need receipts, click [here](#).

Of course, do your best to try to prevent audits in the first place. See [Ten Ways To Audit Proof Your Tax Return](#). And if you want to fight over taxes, hire someone competent to do it. You won't have to say you're sorry.

*Robert W. Wood practices law with [Wood & Porter](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009, [Tax Institute](#)), he can be reached at wood@woodporter.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*