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IRS Statute Of Limitations = Carry Back Snafus

You might think the IRS statute of limitations only prevents the **IRS** from going back more than [3 years for most issues or more than 6 for others](#). But it is a two way street so taxpayers **also** can't go back too far. These tax issues come up more than you might think, and it's not always the IRS arguing it's too late.

Expect the IRS to try a longer reach back if there's substantial money at stake. That's certainly what the IRS is doing in the well-publicized [3 vs. 6 year audit fight](#). Conversely, you may find yourself trying to use credits or refunds but running into the IRS using the statute of limitations as a **bar**. That's what happened to R.H. Donnelley.

Donnelley asked for a refund based on carrying back unused research credits and foreign tax credits. See [R.H. Donnelley Corp. v. United States](#). Donnelley filed its tax return for 1994, which the IRS examined and approved. Then Donnelley claimed a refund for 1991 and 1992 based on carrying back \$3 million in unused research credits and \$8 million in unused foreign tax credits from 1994.

The IRS response was a closer look at 1994. In fact, the IRS assessed a whopping \$43 million in additional tax. The IRS admitted the statute of limitations prevented it from collecting the \$43 million, but claimed it wiped out all the 1994 credits Donnelley hoped to carry back to 1991 and 1992! At that point, Donnelley filed suit.

Donnelley argued the IRS was **only** allowed to review the 1991 and 1992 returns, and had to accept any carry backs from 1994 because the statute of limitations had expired. However, the court sided with the IRS, noting a big difference between the IRS trying to collect additional tax vs. protecting itself from refund claims after the limitations period.

If the statute of limitations hadn't expired, Donnelley would have owed more than \$30 million in additional taxes for 1994, even **after** the credits. Although the IRS could not collect those additional taxes, the court allowed the IRS to consider that tax year to determine whether the carry backs were proper.

Donnelley appealed to the Fourth Circuit but it too agreed with the IRS. It reasoned that Donnelley had not actually overpaid its taxes so wasn't entitled to a refund. Donnelley's refund claim depended on credits that could be carried back **only** because Donnelley had misreported its taxes in the first place.

The statute of limitations protected Donnelley from the IRS collecting additional taxes. It didn't give Donnelley the ability to **also** grab a tax refund. That would have been a second windfall, said the court.

For more, see:

[IRS Pushes For 6 Years To Audit!](#)

[IRS Wins Big In Six Year Audit Push](#)

[What Triggers IRS Statute Of Limitations?](#)

[IRS Statute Of Limitations ? – Is Your Return Safe?](#)

[More IRS 6 Year Audit Pushback](#)

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