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THE TAX LAWYER

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# Tax Refund Too Good To Be True? Don't Spend It

If you find \$100 in cash, you could leave it there or pick it up and keep it. After all, finders keepers. You could also turn it in. Depending on where you find it there might be a variety of possibilities for turning it in. But however you handle it you probably will not be too worried about your legal liability.

In contrast, if you get an extra large IRS refund check or automatic deposit to your bank account, you should be. Why fear a bonanza-sized tax refund? Everyone likes getting a [tax refund](#). But if you get a larger than expected tax refund, don't cash the check or use the money when it hits your account until you receive a notice explaining it and you are sure it's yours.

Expect a notice from the IRS within a few days of receiving the funds. Examine the notice and get some professional advice if it isn't clear what the IRS did. If it is an error, the IRS will want its money back, usually with interest. What's more, it might take the IRS a year or even more to discover the error.



If you think you're in this big mistake category, check with the IRS. See [Getting A Tax Refund? Ten Things to Know](#). [Stephen McDow](#) of Laguna Beach, California learned this the hard way. He was [jailed](#) for spending a generous \$110,000 refund the IRS erroneously deposited in his bank account. The refund was **meant** for a woman who had requested to have the funds deposited in her Citibank account. She gave the IRS her **old** Citibank account number—not knowing it had been reassigned to [Mr. McDow](#).

**Refund Then Audit?** Mr. McDow's case is unusual, but erroneous tax refunds happen more frequently than you might imagine. You might think getting a tax refund means your return has been examined. Unfortunately, the fact that you receive a tax refund doesn't mean that your return has been audited and approved. The IRS generally has [three years](#) to audit your return.

Often, a refund will be processed and the audit will come later. [Amended tax returns](#) are even more vulnerable. See [Ten Tips For Amending Tax Return](#). If your situation isn't clear, get some advice from an accountant or tax lawyer. And don't spend the money unless you're sure it's yours.

*Robert W. Wood practices law with [Wood LLP](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009 with 2012 Supplement, [Tax Institute](#)), he can be reached at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com). This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*