PacificCPE

COURSE
34453A

IRS Appeals and Tax Court Strategies

When an audit doesn't go your client's way, knowing the next steps matters. This course covers the IRS administrative appeals process—including how appeals officers negotiate, what types of cases they won't hear, and how to build a winning appeal strategy. It also demystifies Tax Court, walking through filing deadlines, burden of proof rules, courtroom tips, and when it makes sense to represent a client there. A practical course for practitioners who want to advocate effectively beyond the audit stage.

CREDIT HOURS 2 | FIELD OF STUDY TAXES | EXAM QUESTIONS 10

Start Course ↓

Final Exam Copy ↓

LEARNING ASSIGNMENTS AND OBJECTIVES

Assignment

- Study the full course materials included here.
- Complete the review questions after each chapter.
- Answer 10 final exam questions.
- Final exam is scored immediately, 70% or better passes.
- Certificate of completion is available in your account.
- Failed exams can be retaken free of charge.

Course Objectives

- Recognize the benefits of appealing audit results.
- Recall the characteristics of Tax Court.

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Chapter 1: APPEALING YOUR AUDIT WITHIN THE IRS

Chapter Objective

After completing this chapter, you should be able to:

- Recognize the benefits of appealing audit results.

You tried to get the auditor to be reasonable but the person just wouldn't see things your way. In fact, you received a costly examination report. You spoke to the auditor's manager in an effort to win an informal appeal. Again, you didn't have any luck. You're not ready to give up, though. What's next?

A formal appeal, that's what. The IRS has an administrative procedure for appealing unagreed examination reports to an IRS appeals office. Officially renamed the Internal Revenue Service Independent Office of Appeals in 2019, the appeals office had approximately 1,263 employees in mid-December 2025 scattered throughout the United States. Take advantage of this procedure, which is described in IRS Publication 5, Your Appeal Rights and How To Prepare a Protest If You Disagree.

Fewer than 1 in 10 audited taxpayers appeal. Many more taxpayers should. Appealing is neither difficult nor time-consuming, and your chance of achieving at least some tax reduction is excellent. Despite this, however, most taxpayers are either too discouraged or intimidated to appeal. That's too bad.

The official IRS position on the appeals process is this:

> The appeals mission is to resolve tax controversies, without litigation, on a basis which is fair and impartial to both the government and the taxpayer and in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the [IRS]. (Internal Revenue Manual § 8.1.1.1(1).

The Odds of Winning an Appeal

Most auditors privately refer to the appeals office as the IRS's gift shop. An IRS in-joke even says that appeals officers work on the 50% rule—they like to cut auditors' adjustments by half.

IRS statistics show that the auditors are exaggerating—but not by much. The average appeal results in a 40% decrease in taxes, penalties, and interest the auditor imposed. So, even the IRS confirms that it pays to appeal. The only mystery is why more audit victims don't.

According to the IRS, in a recent year, over 100,000 appeals were taken by taxpayers and over 80% were resolved in a manner acceptable to both sides.

Appeals of other IRS actions. In addition to audits, many other IRS decisions may be appealed, such as tax liens and levies. (See Chapter 1 of course 34451B of course 34454B, Chapter 1 of course 34451B of course 34455B.)

PROS AND CONS OF APPEALING AN AUDIT

Three solid reasons exist for appealing an audit and there are two relatively insignificant reasons not to.

Pros

- Appealing is simple and costs nothing unless you use a tax professional, which isn't usually necessary for success.
- Appealing, in the majority of cases, results in some savings, although rarely a total victory.
- Appealing delays your audit tax bill for months, buying you time to consider payment options.

Cons

- The appeals officer can raise issues the auditor missed—but this almost never happens. Nevertheless, if you're afraid that a missed item will be discovered and you'll owe a lot more in taxes, you can skip the appeal altogether. In this case, you can go directly to Tax Court, where new issues can't be raised. (See Chapter 2.)
- Interest (and sometimes penalties) on the tax bill continue to run while you are appealing. This is typically a small item as compared with the likely tax savings resulting from most appeals.

The IRS Does Not Have to Offer an Appeal

The IRS is not legally required to let you have an administrative appeal after an audit—and sometimes it doesn't. Instead of a 30-day letter offering an appeal, you might get a so-called "90-day letter." This means the only way to challenge the audit without paying the additional tax the IRS claims you owe is to file a petition in Tax Court within 90 days. (See Chapter 2.) Here's something odd: If you don't get an appeals hearing and do file a Tax Court petition, your case will be sent to the Independent Office of Appeals anyway. You will now probably be offered an appeal hearing, or you can request one. If you don't settle in the appeals office, your file will be sent to an IRS lawyer.

HOW TO APPEAL AN AUDIT

After the audit, the IRS sends an examination report with proposed adjustments—additional taxes, penalties, and interest. If you don't sign and return a copy of the report within a few weeks, the IRS usually sends a letter (the 30-day letter) and IRS Publication 5, an explanation of how to appeal the report.

Time Limit for an Appeal

"Protest" is the official term for formally appealing an IRS determination. You must protest within 30 days of the date on the appeal notice letter—not the date you received it. As discussed in Chapter 1 of course 34452B, you can also informally appeal to the auditor's manager.

Caution!

Meeting the manager does not extend the 30-day deadline to file a formal appeal. Make sure you file a written protest, too.

Can't file your protest in time? Request an extension for another 30 to 60 days to appeal. Requests to auditors or managers are usually granted, but don't rely on an oral promise. Send a confirming letter stating the terms of the extension and the name of the person granting it.

How to Get Your Audit to the Appeals Office

There are three ways to get your audit to the IRS Independent Office of Appeals. Which one to choose depends on your preference and how much the IRS auditor says you owe:

- **If you owe less than $2,500:** You can simply ask the auditor for an appeal—technically, your oral request is sufficient. But, to make sure you are not forgotten, either write a protest letter in your own words and write at the top "Small Case Request" (following the instructions and sample below) or use IRS Form 12203, Request for Appeals Review.
- **If you owe between $2,500 and $25,000**: Either write a protest letter and write at the top "Small Case Request" (following the instructions and sample below) or use IRS Form 12203. We recommend using the form.
- **If you owe more than $25,000:** Write a protest letter. The IRS doesn't have a form for contesting tax debts over this amount. (See below and sample letter.)

IRS Form for Appeals Under $25,000 (Small Case)

To appeal an audit in which the IRS claims you owe $25,000 or less in extra taxes, penalties, and interest, you may use IRS Form 12203, Request for Appeals Review. As you'll see from the sample below, this is a simple, one-page form that lets you list the items on the IRS examination report with which you disagree and briefly explain your position. You can complete the fillable form online at the IRS website (www.irs.gov) and then print it out, or type or handwrite a printed copy of the form. If the space on the form is insufficient, add a separate page or pages. (Be sure to put your name and taxpayer identification number at the top of any extra pages.) Where the form asks for "Taxpayer Identification Number(s)," use your Social Security number if you're an individual and your employer identification number (EIN) if you're representing a business or trust. Also, if you're appealing on behalf of your business, the line "Tax period(s) ended" can be answered with quarters of tax years—for example, 4th quarter, 2022—rather than a whole year figure.

Send the completed form to the IRS office that issued the audit report—by certified mail, return receipt requested.

Protest Letter for Appeals Over $25,000 (Large Case)

To contest an audit debt of more than $25,000, you must file a formal protest, which is a letter, not a form (see the sample on the following page). The letter must contain the following:

- Your name (or names, if married) and Social Security number(s)
- A statement that you are appealing an examination report
- The findings in the report that you disagree with, including penalties and interest

- A brief explanation of why the report is wrong; although not required, you can attach copies of any documents supporting your explanation
- Your signature(s) and date under a penalty-of-perjury clause, and
- Copies of the 30-day letter and examination report.

Make the protest letter short and sweet. Stick to the facts and don't criticize the auditor or the IRS— whether justified or not. Blowing off steam might make you feel better, but it only detracts from an otherwise valid appeal.

A sample protest letter is shown on page 124. This sample is a skeleton type of protest letter, giving only the bare bones of why you are appealing. Some tax professionals recommend very detailed protests with copies of all documents you want to be considered. This can be difficult to do if you're not a tax expert, so go with the minimal approach. This gives you time to either send in supporting documents to the appeals officer later or bring them to the hearing.

For details, see IRS Publication 5, Your Appeal Rights and How To Prepare a Protest If You Disagree.

Send your letter to the IRS office that issued the report—by certified mail, return receipt requested. Also send or give a copy to the auditor.

SAMPLE REQUEST FOR APPEALS REVIEW

Form **12203**
(August 2022)

Department of the Treasury - Internal Revenue Service

Request for Appeals Review

This form is to be used to request an Appeals review upon completion of an examination (audit) if you do not agree with our proposed changes from the audit. Complete the information in the spaces below, including your signature and the date.

Taxpayer name(s)		Taxpayer Identification Number(s)
Mick Rodriguez		555-555-5555
Mailing address 111 Elm Street		Tax form number 1040
City Bloomington		Tax period(s) ended 2019, 2020
State Indiana	ZIP Code 47000	
Your telephone number(s) 111-111-1111		Best time to call 9:00am-5:00pm

Identify the item(s) *(for example: filing status, exemptions, interest or dividends)* you disagree with in the proposed change or assessment report you received with the enclosed letter. Tell us why you disagree. You can add more pages if this is not enough space.

Disagreed item	Reason why you disagree
Disallowance of business expense deductions of $12,999 and penalties and interest of $848	The deductions I took were legitimate expenses of my music business, and I was trying to make a profit.
Disagreed item	Reason why you disagree
Disagreed item	Reason why you disagree
Disagreed item	Reason why you disagree

Name of Taxpayer	Signature	Date
Rick Vallalobos Villalba		4/14/xx
Name of Taxpayer	Signature	Date

Name and signature of authorized representative **(If a representative is signing this form, please attach a copy of your completed Form 2848, Power of Attorney and Declaration of Representative.)**

Name	Signature	Date
Your telephone number	Best time to call	

Catalog Number 27136N www.irs.gov Form **12203** (Rev. 8-2022)

Requesting the Auditor’s File

The Taxpayer First Act of 2019 requires that, starting July 1, 2020, the IRS auditor’s file be made available to a qualifying taxpayer who appeals a deficiency notice to the Independent Office of Appeals. The file is supposed to be provided not less than 10 days before the scheduled date of the settlement conference with the appeals officer. You should be informed of your right to this file. Even if you’re not, be sure to ask for it. It contains notes and workpapers showing how the auditor arrived at the conclusions. There might be nothing new in the file, but it could help you have the auditor’s findings overturned.

SAMPLE PROTEST (APPEAL) LETTER