WHAT IF THE IRS AUDITS YOU?

In general, the likelihood of being audited by the Internal Revenue Service ("IRS") is low. But audits have increased in recent years as the IRS tries to find more revenue.

There are 3 different kinds of audits:

1. Correspondence audit – this is an audit conducted by mail, and typically relates to a particular item on your return or small dollar amounts.
2. Desk audit – with this type of audit, you may have to go to an IRS office and meet with a revenue agent.
3. Office audit – with this type of audit, the IRS comes to you; usually it's just done for businesses.

Generally, you'll learn your tax return has been selected for an audit when you receive an "information document request" in the mail. The request will state what documents the IRS is requesting and the deadline for providing them.

If you haven't been working with a tax professional, like a tax attorney or accountant, you might want to retain one if you have been selected for audit. Even if the issue raised in the audit is relatively simple, and you have all the relevant documentation requested, there are procedural hurdles and deadlines that must be met to help things go smoothly. If you've prepared your own return and the IRS is making a simple request (e.g., receipts to support charitable deductions and you have them), it may be fine to handle it on your own. But if the amount at stake is large, or the tax issue complex, think hard about handling it yourself. To quote Benjamin Franklin, "an ounce of prevention is worth a pound of cure."

If you do respond to the letter on your own, make sure your documents are in order and submit only as much information as is needed to answer the request.

If you have taken an aggressive, but defensible position on a tax issue, make sure you're prepared to make your argument and articulate your rationale.

If you provide the requested information and the IRS decides to impose a "deficiency" (i.e., an amount owed), you have alternatives to consider:

1. You can agree with the IRS finding, at which point the IRS will assess the deficiency and collect it.
2. You can disagree with the IRS finding. You'll have 30 days to file a protest with the IRS. You'll then have a conference with the IRS appeals office.
3. If, on appeal, the IRS still thinks the money is owed, you can again disagree with its decision. The IRS will then issue a statutory notice of deficiency – also known as a "90-day letter" - to you. You'll have 90-days to file a petition with the US Tax Court. The Tax Court is the only court where you do not have to pay the amount owed prior to filing an action disputing the IRS determination.

You also have the option of paying the deficiency and then seeking a refund with the IRS. If the IRS rejects the refund claim – or doesn't respond after a certain period of time lapses - you can then file a refund suit in either US District Court or the US Claims Court (located in Washington, DC).

If you do want to consider going to court and litigate the matter, you have to weigh the cost of legal representation with the amount the IRS claims you owe. If the amount is small and manageable, you can try to handle and fight it on your own. If, however, the amount is significant, consider hiring a good tax lawyer.