

# **Advanced Schedule C Audits**

Questions & Answers



Can you provide reference to authority related to abuse of discretion?	It is generally defined in the courts. For example Woodral v. Comm'r, 112 T.C. 19, 1999 WL 9947 (1999)
Had an audit where the IRS agreed on the IRS mileage log, on the travel trailer, etc on July 4th (oral). The case of Wolpert vs Commissioner came out on July 15th (release date of July 7th). The IRS then sent a written statement denying EVERYTHING. Based on "contemperaneous" mileage log vs spreadsheet. Want to challenge (I've talked to many auditors). Appealable ?	If you have documentation that IRS has refused to consider you may ask for an Appeals Review before audit is concluded.
Are CPA's at risk of losing the ability of doing Tax Resolution with the proposed SSTS from the AICPA?	The AICPA changes seem to be centered around properly and ethically doing resolution based upon some of the guidance in circular 230
Please discuss the appropriate times and reasons to request the work papers from the Revenue Agent?	Generally, we don't want to request them too early. Either right before the NOD was issued or right after is a good time usually to request. That way the case is built in the files and you get the most useful information
If a client who you are representing stops communicating with you in the middle of an expanded audit and the IRS agent asks you if its okay for them to contact the client, is it okay to say, no?	If you are the power of attorney, the IRS should be dealing directly with you and not with the client. If they refuse to provide the information and the client stops communicating, we would recommend sending a letter and letting them know you will no longer be representing them if the do not comply to your requests. If they continue to not communicate, then withdraw the power of attorney.
If asked, is the Revenue Agent required to provide written justification per the IRM/IRC to expand an exam to additional years? Where can the justification to expand be found?	Expanding the audit is dependent on where the audit is taking place. In office audit it generally requires the Group Manager's approval. In the field with a Revenue Agent, the Agent typically has the discretion to do so.
Does the IRS have the authority to audit a church?	Yes they do have that ability
I was working an audit case when the examiner closed the case prior to me getting the paperwork in. I had my client send in the application for tax court. My understanding is they'll be sent to appeals as we haven't done that yet. Do you have any idea how long it takes from the time you apply for tax court until an appeals officer contacts us is?	Generally, about a few months after the case is docketed in tax court, they will remand the case to appeals for pre-trial settlements
Client received notice we disagree with. IRS NOT answering calls or responding to letters. Client still receiving demand notices - next step if levy.	If your client has a final notice of intent to levy, there is rights to do a Collection Due Process Hearing with IRS appeals to offer an alternative solution vs the levy.

How can we pause this when we can't contact them?	
With the TPI is the statement by Yellen fake? So if I have a C at 375K and a E rental income at \$50K (before expenses) that I am now over the \$400K limit?	Yes that would be above the \$400K limit
Where do you get the NRP policies and procedures?	The information on NRP audits is in the IRM 4.22.1 - 4.22.4
I was looking at the downloaded slides. Has the polling question come up yet?	no
If not NRP audit, what other types of audits are there?	There are compliance, office and field audits based upon items on the returns
Can we specifically ask the agent what type of audits it is, or can we only ask whether it is an NRP audit? Or is there another way to tell what kind of audit it is (like the letter number, etc.)??	You can ask about the NRP audits, other than those it would be a normal type audit like a correspondence, field, or office audit
Do you take the taxpayer to the audit?	Rarely. We would only take the taxpayer if there is information or circumstances only they can present.
What about the special limitations found in IRC Section 7611	Yes there are limitations in 7611 for church audits, but none the less the IRS can audit to verify that they are upholding thier non-profit mission
was that "route" manager? thanks	The ladder of authority should be IRS staff, then group manager, then area manager, then territory managers
I asked for a manager once and called him but never heard back from the manager. They simply closed the audit against my client and we had to apply for tax court to go to appeal. Do we have any recourse in a situation like this	The main point is we want to show the court we attempted to resolve everything we could by following the normal channels of the IRS. It will give your client a stronger case if it ends up in tax court.
While I realize this has nothing to do with the topic LG is discussing, the Practitioner Priority Service straight up refuses to give supervisor info, and some on top of that refuse to put in a request for a supervisor follow up. Those that do, we don't always receive the supervisor follow up call. How can we hold PPS Agents accountable for their actions? If I should submit this question in another way, I would be happy to do so. Again, I do not intend on attempting to stear the topic elsewhere, however everything the ASTPS recommends for every other IRS phone line does not work for PPS.	.Not appropriate for this seminar, but I suggest contact the IRS Stakeholder Liaison to secure PPS manager name and number. You could elevate this to a Congressional case - contact Constituent Services.
I have my EFIN , CAF # and ptin do I need anything other than authorization from the client to represent them?	You need to be a CPA, EA, or Attorney to represent. Unless you are an Annual Filing Season Provider who is representing on a return

	you prepared and had you marked as a 3rd party designee
Can you discuss the IRS use of big data and data analytics for selecting returns for audit. Thank you.	IRS is embarking on use of these tools more than ever. Discussion of this is not part of this seminar.
TP comes to you 2 years after they received the examination of tax return letter, and additional tax has been assessed. Are we still able to dispute the additional tax assessed? And would we do FOIA request asking for workpapers?	Yes you can do a FOIA to get the workpapers. In addition, you may be able to still open up an audit reconsideration or a doubt as to liability Offer in Compromise if they qualify
can a AFSP Preparer be listed on a 2848 under a EA and talk on a client matter that they did not prepare tax?	No you would not be able to, however if the AFSP preparer wants to be involved they may be on an 8821 and speak with the IRS along with the EA
How do you prepare for an audit for a client who made a fictitious numbers and cannot provide Receipt	Take a look at the scenario, if it seems illegal like it was done fraudulently have them stop talking. It may be a case where you need to step away and have the client get an attorney and work under a Kovel letter.
I want to double check that bank statements replace the need for actual receipt images	Generally, the IRS will want to see receipt images to prove what was purchased. Even with a utility payment they may want to make sure it is attached to the business address
If Manager does not call you back why not contact his/her supervisor? They used to be called Branch Chiefs.	If the managers don't respond, you may contact the stakeholder Liaison and get the area manager's information
what are the kinds of the questions we should ask the client besides getting his/her bank statements and the tax return, and review it on own?	Ask them basic information on the business for the interview, business establishment, who owns, who has access to banks, etc.
I have an audit with an RO that has transferred out of IRS. The information has been given fully and tied out to the return. I requested it be closed and the RO said the examiner wanted more information i.e. basis calculation from the S-Corp to "develop" the file. It is outside the scope of the audit-how can I close it without further "development".	Basis calculation may impact the return currently under exam. Therefore, the examiner may ask for this information. It is becoming more common that they ask for proof of basis.
Any idea on fees you charge for Schedule C examination by IRS? Sounds like I need much more info & prep etc.	Lawler & Witkowski charges around \$450/hr for audit work
Will there be a video of this for me to go back and listen again?	All recordings are available for ASTPS members
Will this be recorded so we can listen again?	Yes members get access to all of the recordings!
What's is consider a reason to change the place of the audit that will more than likely be acceptable to the IRS Agent?	The biggest thing is where the records are located.

What was the 1 time LG said to have the client present at the audit	Usually we only allow them if the taxpayer has a complex business which may be easier for them to explain
RA based in California. Client based in CA. RA plans to do a site visit. Can an EA from another state represent this client, AND transfer the case to the EA's state	The IRS will still want to do a site visit, usually the audit would take place where the client's records are located, however in that scenario they may make the EA come to them
Is it required to allow the IRS to do a site visit if all the records are at the EA office?	Yes they still have the ability to do a site visit even if the records are at the EA's place of business
If the CPA, EA, or attorney representing a taxpayer is located in a different part of the country than the taxpayer, can we request a change from a office or field audit to a correspondence audit?	Yes based on where the records are maintained. Otherwise they will want it done where the t/p lives.
what is the IRC (or reference) that states my client does not have to be present in the Examination Administration?	IRM 4.75.11.4(6)
Are you seeing any FBAR examinations?	Not recently. They may have been suspended temporarily for COVID
I have several 2848's that were used for Audits. Client took matters in their own hands. I fax 2848 to CAF unit to revoke over a year ago, I am still receiving notices. What can be done?	Try withdrawing the POA again. During COVID the CAF unit was backed up, but they should have processed a POA withdrawal by now
he keeps referring to a document and page numbers like we have that document. how do we get that?	Scroll to the bottom of the slides
Do you use Form 5213 Election to postpone.... engage in for profit?	If they are looking at a hobby loss issue
I don't have an office. I go to my clients home to prepare their returns. Where would you suggest I meet the IRS auditor?	Maybe rent a conference room for a neutral site
Can the IRS Examiner make an unscheduled visit to the taxpayer place of business?	Yes they can. They have even used "Sweep Teams" in regions where population is sparse and/or no IRS presence is regularly located in the area.
At what point is an EA unable to represent a client with unreported issues and need to refer to attorney?	If there is any inkling of criminal, then the client should get an attorney and a Kovel letter. Normal underreporting issues can be handled by an EA
I have a client who is a real estate agent who uses his credit card to buy food for open houses however he does not keep the receipts, is this a problem in an audit?	Potentially yes. Encourage them to begin saving receipts. Even if they are just scanned documents that would work as well
Does auditor allow for www.bizstats.com numbers when there are insufficient records?	You can try using the Cohan rule and industry standards. meals, entertainment, travel and auto will not be allowed without records

What happens when your client saves reported income in there personal safe then deposits some periodically into there business account but the IRS counts this an unreported income?	You would need to verify the source of the deposit. Taxpayer should keep track of amounts put in the safe and reported as income, then show the deposit was made from the saved funds.
I was contacted by someone received a SNOD and it appears that part of the balance due is as a result of the IRS agent denying a prior passive loss carryforward from years outside the audit years. Any IRM citations or guidance on how to research this issue would be greatly appreciated.	If they audited the Carry forward losses, the establishment of the losses would have needed to have been shown during the audit even if the year of the loss was outside the scope of the audit. They are allowed to audit the carry forwards since they effect the audit year
I thought the media was saying these 87000 agents were only auditing high income TPs. Is there a threshold of gross or net profits that are subject to audit from these 87000 new IRS employees?	The IRS is hiring 87k people accross the entire organization and 50k+ are retiring. They say they're only going to target people over 400k but with an increase in staff likely all audits will increase.
Just wondering if any of you have run into an agent when calling the IRS that refuse to spell out his/her last name? I was told by an agent that they don't have to spell out their last name.	They should provide you that information. They have to provide you thier contact information and ID number
How do you find out why the IRS is auditing a client. I have a client that is being audited for meals and travel. Which I don't think the auditor is being truthful. Is it a FOIA request?	The establishment of the audit would be in a FOIA, but normally when we intake an audit, we ask why the client was audited.
Are you required to get your client's permission to concede (make a statement against interest) an issue.	Yes, you have to make your client aware of the issue and the tax implications. If that area of concern is brought up in the audit and there is no ability to respond you may have to concede.
Is posible to represent a client if I am only a Tax Profesional tile?	No, however if you do the AFSP program you can represent returns you prepare, or you can get an EA and do representation.
I don't think he's going to get to it in the next 7 minutes. - If they ask for a copy of the client's QuickBooks, can we say no if we offer to send any reports they want?	No must provide QBKS
What if someone from the same company prepared the return?	Same firm is equivalent to same person
What is stopping the Agent from going to the Tax Preparer to gather the info that is being requested for that Audit?	The taxpayer is supposed to provide the information to the IRS to prove thier case. The IRS can get records from 3rd parties, but that usually is places like banks or employers if the taxpayer does not comply or the IRS wants a secondary verification
I agree the IRS can do that. I was trying to find out what is considered proof of the loss (from the unaudited periods) so I can see if the taxpayer provided such proof of prior losses to the IRS.	I had a case with a NOL carryforward issue. We provided copies of the old returns where the NOL started, and then put together a spreadsheet of what was taken each year and what was left. The

This goes back 10-15 years. So several losses over a long-period of time. Thank you!	biggest thing is proving the establishment of the NOL if you can get records
Aren't the ATG part of the IRS Manual? If so, can they be accessed?	No they are not part of the IRM. You can google irs.gov IRM and then audit guide for whatever industry you are working on
Is IRS going to update the ATGs? some are very old	They periodically update them, but a lot are old
where do we get the ATG's audit training guidelines	you can look them up. Google irs.gov Audit training guide and whatever industry the taxpayer is in.
If a person in your firm prepares the return but you as the CPA or EA didn't, can the CPA or EA assert tax advisor-client privilege?	Yes, if they are the signer of the return, but generally accountant privilege is useless as it doesn't apply in criminal cases
what was LUQs?	Large Unusual and Questionable
If your audited SCH C and you go to appeals and appeals makes a deal. Wants you to sign 12257 waiver of Judicial review. Is it over? can they go back and charge fraud?	They could charge fraud. sometimes a fraud case could be being built in the background
My CAF # address on record doesn't align with what the IRS has on file and it has hindered my ability to be a POA for my clients, what do I need to do?	Prepare a new POA/8821 and check the box for new address and then include your new address. It will be updated in the CAF unit for every case you have
Can we re-open an examination if it has been closed but taxpayer never received any letter.	Yes you can with an audit reconsideration if something has not been adjusted or the taxpayer has new records
where can we find ATG's?	IRS.gov
Is it a general rule of thumb that we avoid representing the clients for the audit, if we prepared the tax return due to the lack of privilege? Would the Kovell letter work if we want to represent the client?	It depends. A lot of times it is better if we do not represent our own preparation client in case there is an issue where there may be preparer penalties looked at. A conflict of interest might arise
are these the same areas for Schedule F as well? are Schedules F also being pulled into audit? I have a few clients (not many) that we have losses on Schedule F Farming losses	Yes that is also possible since they are self employed. The IRS prefers to audit self employed people since there is the most room for error.
If the IRS Examiner makes a surprise visit or an unscheduled visit to the taxpayer place of business to examine the inventory, and the taxpayer called you to step in as a representative with the POA, can you stop the IRS examiner at that moment until later time? Or what do you do to resolve the issue?	Yes. The auditor should be scheduling the site visit with the representative
Do you recommend conceding when the client does not retain expense receipts but has bank records showing expense transactions? TY	Apply the Cohan Rule if it will help to preserve deductions

How do you approach an audit if you get the case after the issuance of the F4549A report?	If the taxpayer never showed, or there are new records that have not been reviewed, you may be eligible to do an audit reconsideration
What is an affordable tax research software you recommend for lower budget practitioners?	Parker Tax
my phone rang when he was giving the tcm number. can you give it to us again?	Its in chat
lexus nexus tax is a great tool .	agreed
Do you have a checklist you use to determine if a case is likely to be pursued for a criminal matter?	the biggest thing is watch for the auditor going quiet. That is usually a hint that they might be going criminal
What is the average cost of this type of service we can charge those types of Clients?	Lawler & Witkowski charges \$450/hr for audit work
What is your average cost for a office audit and field audit?	Too case dependent to answer. We simply have a minimum retainer to commence a case of either type
I was listening by phone (not looking for CE) and am looking for TCM. Don't see it in chat. Sorry to ask again.	2015-241
what is average cost for this service i should bill them.	Lawler & Witkowski charges \$450/hr min for audit work
Was is the Cohan Rule?	Based on the old case from the 30's George M. Cohan v. Commissioner allowing t/p to estimate expenses - does not apply to entertainment or transportation expense
I Have had connection problems and have loggegd out and back in several times will all my polling answers be captured?	Won't know until we pull the report
What is a covale agreement?	A Kovel agreement is where there is a criminal case. The attorney is hired by the client and then the attorney brings in an accountant and they all have attorney client privilege
When you go for the Kovel letter you withdraw the POA you have qieh the client?	Yes. The attorney would hire you or a clean accountant under the Kovel
Should you have everyone sign a covell letter just to be safe?	The Kovel letter should come from the attorney to the accountant handling the case
Does a tax attorney can represent a client for the criminal cases?	Yes they have attorney client privilege
as a memeber, do we receive certain number of answer to our IRS questions?	A premium member gets 6 annual consultations per year. Premium membership is \$400/year.
Are business loans considered income?	No
If expenses are over reported by \$1m and irs can see that it was just sloopy bookkeeping will they refer it to Fraud?	If there are enough badges of fraud, they may be able to look at a fraud referral. It all depends on how big of a percentage or issue the \$1m is compared to the income/other items on the return as well