



What Are The Chances Of Being Audited

What are the chances of being audited? Of the 138,788,744 total individual income tax returns with a filing requirement (this excludes returns filed only to receive an economic stimulus payment), 1,425,888 were audited. This works out to roughly 1%, the same percentage as for the previous year. Of the total number of individual income tax returns audited in FY 2009, 508,180 (35.64%) were for returns with an earned income tax credit (EITC) claim, roughly the same as for FY 2008.

Only 22.8% of the individual audits were conducted by revenue agents, tax compliance officers, and tax examiners; the bulk of the audits (about 77.1%) were correspondence audits. These percentages are comparable to those for FY 2008.

Following are the selected audit rates for individuals not claiming the EITC:

- For business returns other than farm returns showing total gross receipts of \$100,000 to \$200,000, 4.2% of returns were audited in FY 2009, versus 3.8% in FY 2008.
- For business returns other than farm returns showing total gross receipts of \$200,000 or more, 3.2% of returns were audited in FY 2009, versus 3.1% in FY 2008.
- Of the returns showing farm (Schedule F) income, .3% were audited in FY 2009 versus .6% in FY 2008.
- For returns showing total positive income of \$200,000 to \$1 million, 2.3% of returns not showing business activity were audited, and 3.1% of returns showing business activity were audited; for FY 2008, these percentages were 2.6% and 2.8% respectively.
- For FY 2009, the audit rate for returns with total positive income of \$1 million or more was 6.4%, versus 5.6% in FY 2008.

Not surprisingly, examination coverage increases for higher income earners, but coverage was less than it was for the prior year. For example, the percentage was .67% for those returns with adjusted gross income (AGI) between \$100,000 and \$200,000 (down from .98% for FY 2008), 1.86% for those with \$200,000 to \$500,000 of AGI (down slightly from 1.92% for FY 2008), and 5.35% for those with \$1 to \$2 million of AGI (down from 6.47% for FY 2008).

The audit rates for business returns were as follows:

- For all corporate returns other than Form 1120S, 1.3%, the same percentage as for the year before.
- For small corporations with total assets of: \$250,000 to \$1 million, 1.3%; \$1–\$5 million, 1.8%; and \$5–10 million, 2.7%. For FY 2008, the percentages were, respectively, 1.4%, 2%, and 3.1%.
- For large corporations, those with total assets of \$10 million or more, the overall audit rate was 14.5%, down from 15.3% for FY 2008. The audit rate for these corporations increased with the size of the entity. For example, the audit rates were 10.1% for those with total assets of \$10–\$50 million (versus 11.7% for FY 2008); 15.8% for those with \$250–\$500 million (versus 14.2% for FY 2008); 48.7% for those with \$5–20 billion (versus 64.2% for FY 2008), and for both fiscal years, 100% for those with \$20

billion or more. Actually, the FY audit rate for 2009 (or for FY 2008) may exceed 100% of the returns filed in calendar year 2008 (or calendar year 2007), since examinations may be conducted on returns filed in prior calendar years.

- For partnership and S corporation returns, the audit rate was .4%, the same as for the year before.

IRS's activity on other fronts. Here's a roundup of some of the other valuable information carried in the new IRS Data Book.

Number of returns filed. The number of business returns filed in FY 2009 versus those filed in FY 2008 illustrates the growing popularity of passthroughs. The number of partnership returns filed (Form 1065) grew by 7.8% and the number of S corporation returns (Form 1120S) grew by 1.3%. By contrast, the number of C or other corporation (e.g., for REMICs, REITs, RICs, etc.) returns dropped by 2.4%.

No doubt due to the general contraction of economic activity and growth in the ranks of the unemployed, the number of individual income tax returns (Forms 1040, 1040A, 1040EZ, 1040EZ-T) in FY 2009 versus FY 2008 fell 6.7%, from 153,308,000 to 142,983,000.

Math errors on individual returns. Of the close to 13.48 million math error notices that IRS sent out relating to the 2008 return, 74.4% were attributable to the Code Sec. 6428 recovery rebate credit which on the 2008 return provided for a refundable recovery rebate credit to an eligible individual—one other than a nonresident individual, an individual who could be a dependent, or an estate or trust. Any economic stimulus payment the taxpayer received in 2008 reduced the recovery rebate credit.

Of the total math error notices, 6.6% were for tax calculation/other taxes (which includes errors made relating to self-employment tax, alternative minimum tax, and household employment tax), 4.2% relating to exemption number/amount, 3.6% relating to the earned income tax credit, and 3.4% relating to the standard/itemized deduction.

Penalties. In FY 2009 IRS assessed 26.387 million civil penalties against individual taxpayers, down from 30.223 million civil penalties assessed in the previous year. Of the FY 2009 assessments, the “top three” penalties in percentage terms were 54.71% for failure to pay, 28.67% for underpayment of estimated tax, and 14.42% for delinquency. On the business side, there were a total of 970,098 civil penalty assessments, and 55.8% of these assessments was for either failure to pay or underpayment of estimated tax. (The data was organized differently for FY 2008 so comparisons can't be made to the previous year.)

Offers in compromise. In FY 2009 52,000 offers in compromise were received by IRS, and 11,000 (26%) were accepted. These figures reversed declines in the two preceding years.

Criminal cases. IRS initiated 4,121 criminal investigations in FY 2009. There were 2,570 referrals for prosecution and 2,105 convictions. Of those sentenced, 81.2% were incarcerated (a term that includes imprisonment, home confinement, electronic monitoring, or a combination thereof). By way of comparison, in FY 2008, IRS initiated 3,749 criminal investigations, there were 2,785 referrals for prosecution. Of those sentenced, 80.9% were incarcerated.