

# Internal Revenue Service Audit Referral

## Most Frequently Asked Questions

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### **Are Colorado residents living abroad in other countries liable to file and pay Colorado income tax?**

Yes. If the income is subject to federal income tax.

### **Why is penalty charged when DOR makes an assessment covering the adjustment to income?**

Colorado statute 39-21-110.5 states statutory additions will be assessed when any taxpayer fails to pay tax by the due date.

### **What is the Colorado limitation on tax assessments?**

The statute of limitations for making assessments of Colorado income tax shall be the time provided for assessing a deficiency in federal income tax plus one year (unless no return is filed).

### **Why didn't DOR credit the additional Colorado wage withholding associated with the adjustment involving additional wages?**

Not all W-2s, Wage and Tax Statement, documents are provided by third parties and therefore DOR is not knowledgeable of the additional withholding credit. Once the taxpayer provides the W-2 information the account will be adjusted accordingly.

### **Does DOR recognize IRS ruling involving Injured or Innocent Spouse claims filed?**

Yes.

### **Why doesn't Fair Share Section contact IRS and get a copy of the record of account and/or revised examination audit report?**

IRS will not release the information to **any** third party not authorized to have the information. Disclosure laws are also applicable to other federal and state government agencies.

### **Why doesn't IRS forward a copy of the revised examination report since the agency made the original referral?**

The cooperative agreement does not include providing states with revised and/or rescinded adjustment reports.

### **Why cannot Fair Share Section provide the taxpayer with a copy of the IRS' Income Tax Examination Changes Report and/or federal tax return received?**

DOR has to abide by IRS security procedures involving the release of federal information provided to the state.

### **IRS never notified me of the federal tax adjustment thus how can I be held accountable for the state's additional tax assessment?**

DOR relies on the accuracy of income information given by the IRS. If the taxpayer thinks an error has been made or would like to have more regarding the federal adjustment, the taxpayer will have to acquire the data from the IRS. The additional state tax assessment stands until supportive documentation shows differently.

### **What are my appeal rights?**

For the taxpayer to protest the tax assessment or any part thereof, it will be necessary for him to make written application to the executive director for a hearing and to present the facts, the law, and arguments in written protest in duplicate. This must be filed within 30 days from the date of the initial billing and must contain the following information:

- Taxpayer's name and address
- The reference noted in the upper right hand corner of the billing
- The taxable period(s) involved
- The amount(s) and kind(s) of tax in dispute
- An itemized schedule of the findings with which the taxpayer does not agree
- A summary statement of the grounds upon which taxpayer relies for the purpose of showing the tax is not due
- Affirmative or negative determination of taxpayer to use brief in lieu of hearing as provided in C.R.S. 39-21-103(7), as amended.

**Why was interest charged during the period of time I had no knowledge of the tax discrepancy?**

CRS 39-21-109 states, "...interest must be paid on the amount due from such due date to the date of payment..."

**How long should the taxpayer retain records of past returns and supporting documentation?**

Books, accounts, and records which supports a tax liability should be retained "for such period as provided by law," which can be subject to inspection by DOR at any time.