

CLIENT ALERT

Top Three Tips for Managing an IRS Audit in the Face of a Government Shutdown

Dec.11.2019

Although it appears unlikely that the government will shut down on December 20, 2019, it is impacting current audits. If you have an active IRS audit, we have some tips for handling a government shutdown.

Background

On December 20, 2019, the federal government runs out of funding. If a budget deal is not passed by then, we are facing another shutdown. Hopefully, if there is a shutdown, it will not be as long as last year's record 35 days.

Although a government shutdown appears unlikely, taxpayers with active audits cannot ignore the possibility. At this point, most IRS revenue agents have to prepare as if there will be a shutdown. In our matters with the IRS, the IRS revenue agents or Chief Counsel attorneys have already begun raising the potential impact of a shutdown and are taking action based on a shutdown (e.g., declining to grant an extension). Plus, many IRS employees need to use up their annual leave in December—so your revenue agent (or her manager) may be out for the rest of the year before a budget is even passed.

If there is a shutdown, all IRS employees will be furloughed unless they are deemed “essential.” If you have a statute expiring in your audit, your revenue agent will most likely be deemed “essential.” According to the U.S. Department of Treasury's Appropriation Contingency Plan dated September 20, 2019 for the Fiscal Year 2020, 59.3% of IRS employees will work during the shutdown if it coincides with a filing season. Of course, those employees will be working on the 2019 filing season and not active audits.

Tips

The keys to managing an audit during a shutdown are the same as managing any audit—good communication and keeping detailed records.

You should work with your revenue agent to create a game plan for a shutdown. Key things to discuss with your agent:

- What should you do with submissions that are due during the shutdown (e.g., a response to an IDR)? Should you submit them as usual or wait until the government reopens? Is it better to physically mail so submissions are not “lost” in a backlog of emails?
- How should you handle scheduled meetings? Are all scheduled upcoming meetings canceled if there is a shutdown? We suggest a “drop dead” date for scheduled meetings. *E.g.*, if the government is closed 10 days before a meeting, the meeting is canceled. This saves travel expenses and wasted preparation.
- If an issue arises during the shutdown that you need to address with the IRS, whom should you contact? Will the agent's supervisor be deemed essential? Or is there is an “essential” employee that can serve as a contact point?

As always, you should keep detailed records. Be sure to keep records regarding your “game plan” with your IRS agent for the shutdown, date-stamped copies of any submissions you made during the shutdown, and any attempts to contact the IRS during the shutdown.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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