

Award of costs and attorneys' fees

Dear Reader:

I am writing to inform you of the rules under which taxpayers who do battle with the Internal Revenue Service may be able to recover some or all of the administrative and litigation costs they have incurred.

Administrative costs may be awarded from the date on which IRS sent a notice of deficiency, if the taxpayer substantially prevails with respect to the most significant issues or the amount in controversy, and has not unreasonably protracted the proceeding. (However, a taxpayer won't be treated as a prevailing party if IRS can show that its position was substantially justified.) A specific application procedure must be followed if costs are to be awarded by IRS to the taxpayer. If a taxpayer has exhausted his administrative remedies within IRS and takes the case to court, he can also recover reasonable litigation costs.

Costs that can be recovered include reasonable attorney fees, court costs, expenses of expert witnesses, and costs to prepare any study or analysis necessary to the case. The hourly cap on awardable attorney fees is \$180 per hour in calendar years 2010 and 2009, unless special factors justify a higher rate.

If you would like more details about the award of administrative and litigation costs and fees, please do not hesitate to call.