Two Sets of Rules?

What the Government Can Do When You Get Money Wrong — and What Happens When the Government Does

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Version 1.0 — PFRG Government Accountability Project, Part 1 of 2 — September 2026

Why This Exists

If you owe the IRS money and don't pay, things start happening to you — on a schedule, automatically, often without a judge ever looking at your case. Interest builds. Penalties are added. Eventually the government can take money straight out of your paycheck or bank account.

That raises a fair question: when the government itself gets money wrong — pays the wrong people, spends money it wasn't given, or can't account for what it owns — does anything comparable happen to it?

This document doesn't answer that question yet. It lays out, in plain language, the facts on both sides: what the government can do to you, what exists to hold the government accountable, and the legal walls that make the two sides different. Every figure is checked against the actual law or the agency that produced it.

Part 2 takes these facts and tests the most common claims about government accountability — including the ones that turn out to be partly true.

This project builds on PFRG's earlier research, *Where the Money Actually Comes From* and *Testing the Big Claims About Taxes and Inflation*, which found that funding tax enforcement returns several dollars for every dollar spent. This project asks the mirror-image question: what enforcement points the other way?

Part One: What the IRS Can Do When You Owe

Interest

Interest starts on the day your tax was due, whether or not you knew you owed it. The rate is reset every three months: the federal short-term interest rate plus three percentage points (26 U.S.C. § 6621), and it compounds daily (§ 6622).

> **To be fair about this:** interest runs both ways here. When the IRS holds money you overpaid, it owes you interest at the same rate — short-term rate plus three points for individuals (plus two for corporations). This is one of the few places where the rules are genuinely symmetrical.

Penalties

On top of interest, the tax code adds penalties:

Penalty	What triggers it	How much
Failure to file	Not filing your return on time	5% of the unpaid tax per month, up to 25% (§ 6651)
Failure to pay	Filing, but not paying on time	0.5% of the unpaid tax per month, up to 25% (§ 6651)
Accuracy	Underpaying because of negligence or a substantial understatement (more than the greater of 10% of the correct tax or $5,000)	20% of the underpayment (§ 6662)

A few details make these heavier than they look. Once the IRS sends a final notice of intent to levy and 10 days pass, the failure-to-pay penalty doubles to 1% per month. If a failure to file is fraudulent, that penalty rises to 15% per month, up to 75%. And interest keeps running on top of all of it.

Penalties can be reduced or removed if you show "reasonable cause" — but you generally have to ask and prove it. Relief isn't automatic.

Liens

Once the IRS has assessed a tax, sent you a bill, and you haven't paid it, a federal tax lien arises automatically (§ 6321). It attaches to everything you own — your home, your car, your bank accounts — and to anything you acquire later. The IRS can also file a public notice of the lien, which can affect your ability to borrow or sell property.

Levies

A levy is the actual seizure: wages, bank accounts, retirement funds, vehicles, or real estate (§ 6331). **The IRS does not need a court order to do this.** It must first send a bill, then a final notice of intent to levy at least 30 days in advance, along with notice of your right to a hearing (§§ 6330, 6331(d)). If the IRS determines that collection is "in jeopardy," it can skip the waiting period and seize immediately, with a hearing offered afterward.

> **Worth knowing:** most private creditors have to sue you and win a court judgment before they can garnish your wages. The IRS can skip that step.

Your Protections Against the IRS

The IRS's powers are not unlimited. Taxpayers have several real protections, most of which were added or strengthened by the IRS Restructuring and Reform Act of 1998:

- **Collection Due Process hearing** — the right to challenge a levy or lien before an independent IRS appeals officer, and then in Tax Court.
- **Tax Court** — you can dispute what the IRS says you owe before paying it.
- **The National Taxpayer Advocate** — an independent office inside the IRS that helps taxpayers with problems and reports IRS failures to Congress every year.
- **A lawsuit for damages (§ 7433)** — if an IRS employee recklessly, intentionally, or negligently breaks the rules while collecting from you, you can sue. Damages are capped at $1,000,000 ($100,000 for negligence), and you must first use up the IRS's own internal remedies.

- **Mandatory firing for specific misconduct (Section 1203 of the 1998 law)** — IRS employees must be fired if found to have committed any of ten listed acts, including seizing property without required approval, lying under oath in a taxpayer matter, falsifying records, harassing taxpayers, or threatening an audit for personal gain. Only the IRS Commissioner personally can reduce the penalty. Congress wrote this list for IRS employees specifically; we found no equivalent mandatory-firing list for employees of other agencies.

Part 2 tests how well these protections actually work.

Part Two: What Exists to Hold the Government Accountable

The Government Accountability Office (GAO)

GAO is Congress's auditor. It investigates how federal money is spent and recommends fixes. **It cannot order anyone to act** — agencies and Congress decide whether to follow its recommendations.

The record is more mixed than people often assume:

- Federal agencies typically implement over 75% of GAO's recommendations, which GAO credits with $1.51 trillion in financial benefits since 2002.
- Congress is slower. Of the recommendations GAO makes directly to Congress, 277 remained open as of April 2026.
- GAO estimates that acting on all of its open recommendations could produce $132 billion to $251 billion in future financial benefits.

Inspectors General

Most federal agencies have an Inspector General — an internal watchdog created under the Inspector General Act of 1978. Inspectors General investigate fraud, waste, and mismanagement, refer possible crimes to the Justice Department, and report to Congress. Like GAO, they recommend; they cannot compel an agency to change.

The Antideficiency Act

This is the main law that stops federal officials from spending money Congress didn't approve. It bars spending more than was appropriated, or before it was appropriated, and requires agencies to report violations to the President, Congress, and GAO (31 U.S.C. § 1351).

The penalties on paper are real: administrative discipline up to removal from office, and for knowing and willful violations, a fine of up to $5,000, up to two years in prison, or both (§ 1350).

What actually happens: violations are reported regularly, and some officials have been suspended or removed. But we found no record of anyone ever being criminally prosecuted under this law. Reference sources describe prosecutions as rare or nonexistent. We could not locate a primary Justice Department record to confirm "never," so we state it as: no known prosecutions.

Improper Payments

Agencies must estimate and report payments that were made incorrectly, and submit plans to reduce them (Payment Integrity Information Act of 2019). As established in PFRG's earlier research, agencies reported an estimated $186 billion in improper payments in fiscal year 2025, about $153 billion of which were overpayments.

To be precise again: improper does not mean fraudulent. Many are errors, outdated eligibility information, or missing paperwork. The consequence for an agency with high improper payments is a reporting and corrective-action requirement — not a penalty.

Annual Financial Audits

Federal agencies are required to have their financial statements audited every year. The Department of Defense — which manages the largest discretionary budget in the government — failed its audit for fiscal year 2025, its eighth failure in eight attempts since full audits began in 2018. The Department's own Inspector General issued a disclaimer of opinion — meaning the Department could not provide enough evidence for auditors to reach a conclusion — and identified 26 material weaknesses. It is the only one of the government's 24 major agencies that has never passed. The defense authorization law for fiscal year 2024 requires a clean audit opinion by December 31, 2028.

We found no automatic consequence for failing, and no penalty attached to missing the 2028 deadline. The department's budget is not reduced, and no official is penalized.

Part Three: The Legal Walls — Why the Two Sides Work Differently

Sovereign Immunity

You cannot sue the federal government unless Congress has agreed to let you. This principle, called sovereign immunity, is centuries old. Congress has waived it in specific areas:

- **The Federal Tort Claims Act** — for injuries caused by the negligence of federal employees.
- **The Tucker Act** — for contract disputes and certain other money claims, heard in the Court of Federal Claims.
- **Section 7433 of the tax code** — for improper IRS collection, described above.

Outside those waivers, the government generally cannot be sued for money.

The Appropriations Clause

The Constitution says: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law" (Article I, Section 9, Clause 7).

In *Office of Personnel Management v. Richmond* (1990), a retired Navy civilian worker receiving a disability annuity asked Navy personnel how much he could earn without losing his benefits. They gave him wrong information, orally and in writing. He relied on it, earned over the limit, and lost six months of benefits. The Supreme Court ruled 7–2 that no court can order the government to pay money Congress has not authorized — even when the government's own employee caused the loss.

Who Actually Pays When the Government Loses

Most court judgments against the United States are paid from the Judgment Fund, a permanent standing appropriation (31 U.S.C. § 1304). Section 7433 damages against the IRS are paid this way.

Congress has made exceptions. Under the Contract Disputes Act and the No FEAR Act, agencies must reimburse the Judgment Fund from their own budgets. An agency that fails to reimburse on time is listed as noncompliant in reports to Congress; we found no other consequence in the reimbursement rules.

> **But either way, taxpayers pay.** An agency's budget is taxpayer money too. Whether a judgment comes out of the Judgment Fund or out of the agency's own appropriation, the money came from the public. Making an agency reimburse the fund changes which taxpayer-funded account the money leaves from, not who ultimately bears the cost. The most it does is force the agency to spend less on something else that year — and Congress can replace those funds in a later appropriation.

In other words, a government agency cannot be financially punished the way a taxpayer can, because an agency has no money of its own. The only parties who can personally bear a financial consequence are people: the officials who made the decisions.

Side by Side

	When a taxpayer gets it wrong	When the government gets it wrong
What happens automatically	Interest and penalties start adding up	A report and a corrective-action plan
Is a court needed before money is taken?	No — the IRS can levy after notice	A court is required, Congress must have consented, and payment must be authorized
Who pays	You, personally	Taxpayers — through the Judgment Fund or through the agency's taxpayer-funded budget
Criminal penalties on the books	Yes — tax evasion and related crimes	Yes — the Antideficiency Act
How often those penalties are used	IRS Criminal Investigation referred 2,043 cases for prosecution in FY2025 (all financial crimes; tax crimes were the largest share), with an 89% conviction rate	No known prosecutions under the Antideficiency Act

The Big Takeaway From This Part

The pattern is consistent: on the taxpayer's side, consequences are automatic, personal, and fast. On the government's side, accountability mostly takes the form of reports and recommendations, the cost of mistakes always lands on the public, and the personal penalties that exist on paper go unused.

That last point matters most. Because an agency has no money that didn't come from taxpayers, a financial penalty against an agency is a penalty against the public. Real financial accountability on the government's side can only reach the individuals who make decisions — and that is exactly where the existing penalties go unenforced.

But that isn't the whole picture. Taxpayers do have real protections against the IRS, and agencies do follow most GAO recommendations.

Part 2 tests five claims against these facts — including which ones hold up and which ones don't.

Sources

- Internal Revenue Code: 26 U.S.C. §§ 6321, 6330, 6331, 6621, 6622, 6651, 6662, 7433
- IRS Restructuring and Reform Act of 1998, Pub. L. 105-206, § 1203
- Title 31: 31 U.S.C. §§ 1304, 1341, 1349–1351, 1517–1519
- 41 U.S.C. § 7108(c) (Contract Disputes Act reimbursement); No FEAR Act, 5 U.S.C. § 2301 note; 31 CFR § 256.40
- U.S. Constitution, Article I, Section 9, Clause 7
- *Office of Personnel Management v. Richmond*, 496 U.S. 414 (1990)
- IRS Revenue Rulings on quarterly interest rates (e.g., Internal Revenue Bulletin 2026-8)
- IRS Publication 3583, *IRS Criminal Investigation Annual Report 2025*
- Bureau of the Fiscal Service, *Reimbursing the Judgment Fund*
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- PFRG, *Where the Money Actually Comes From* (2026) — improper payments and tax gap figures