

# Dental Economics

## San Diego dentists win battle for intraoral camera tax credit

IRS auditors are convinced that the tax credit claimed by the dentists is legitimate.

by Ken Rubin, CPA, PFS

The IRS conducted a special audit project targeting dentists with intraoral cameras. The IRS sent out audit notices to a sampling of 30 San Diego dentists who claimed the Americans With Disabilities Act tax credit on their 1995 income-tax returns. Several of my clients were audited. Prior to the audits, many of the dentists I represented and several other dentists who consulted with me had read various articles, pro and con, as to ADA tax-credit availability.

The tax law, Section 44A, does not specifically address intraoral cameras or any other specific equipment. There have been no tax-court cases or IRS revenue rulings on the subject at this point. This has become a highly controversial gray area that is subject to very differing interpretations.

I discussed the audits with Dr. Charles Blair, co-editor of *Dental Economics*' Tax Q & A column. He felt that the tax law as written by Congress is very broad. Regulations have never been written to narrow or interpret it.

I started off each audit by telling the auditor that the camera was purchased with the intention of complying with ADA requirements. Having an intraoral camera eliminates potential discrimination claims and severe fines. The camera is an effective method to explain dental problems and present various possible treatment plans to visually or hearing-impaired existing or potential patients who would not be considered to have adequate accessibility to the office if a camera were not present.

When asked how many visually or hearing-impaired patients the dentists had, I simply told the auditors this question was irrelevant and went on to relate my wheelchair analogy. Just as a dentist who doesn't have any wheelchair patients must make the office wheelchair-accessible, the dentist also must make the office accessible to visually or hearing-impaired patients — even if he or she doesn't currently have any visually or hearing-impaired patients.

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I also stressed to the auditors that the cameras were not purchased primarily for the dentist's benefit of selling cosmetic dentistry and/or increasing case treatment-acceptance rates. The cameras are common tools in the dental office.

In each instance, I was able to convince the auditors that the ADA tax credit was properly claimed and should be allowed. After my first few audits, the lead auditor informed me that all of the auditors working on this special project had a meeting and agreed that the tax credit was legitimate and that they would be allowing it for *all* the remaining dentists being audited!

Although the IRS auditors in San Diego have been allowing the ADA tax credit, independent IRS office audit results do not serve as a precedent for auditors nationwide. *This means that the San Diego result does not guarantee similar success for other dentists across the country.*

From my most recent discussions with knowledgeable professionals, currently there has been a very small scattering of intraoral-camera audits in other cities. Additionally, the San Diego auditors told me that they were not aware of any cities other than San Diego that were included in the special IRS test project. If this is true, hopefully the IRS will be allowing the ADA tax credit for intraoral cameras for dentists nationwide based on the results of the San Diego audits.

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