

- I filed my return, but I owe more tax than I can pay now. Can I make payments?
- I just received a notice that my return has been selected for examination. What now?
- My bank account was just levied. What should I do next?
- I just received a notice of Federal Tax Lien. What is this?
- I have not filed my last two returns. What should I do?

### **I filed my return, but I owe more tax than I can pay now. Can I make payments?**

The IRS will almost always allow you the option of paying your tax liability in installments. You will pay a one-time fee for this opportunity. Please see the page on this site that discusses installment payments in depth.

Further, if the amount of tax you owe is far greater than you could ever pay, you may qualify for an Offer in Compromise. This program enables taxpayers who are in deep over their heads to settle their tax debt for less than its face value. There are strict rules and procedures that need to be followed, so be sure that you retain a qualified representative to guide you in this process.

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### **I just received a notice that my return has been selected for examination. What now?**

First thing, do not panic. Most examinations are routine and result because your tax return did not quite match the "norm" for someone in your line of work and reporting approximately the same amount of income. It does not mean that there is anything wrong, but from the IRS perspective, the probability of you having made a mistake is worthy of checking out.

The general rule is that you never – repeat, never – want to ignore this notice! Unless you are aware of a significant error or omission on your return, the best advice is to cooperate with the IRS as much as possible. If you make the auditor or agent's task difficult because of your lack of cooperation, the employee will be far less agreeable to giving you the benefit of a doubt when deciding on what evidence or oral testimony to accept that you offer in support of questioned items.

If you are aware of a significant error or omission on your return, seek professional advice immediately! How you respond can dramatically affect the outcome of your audit. In very limited circumstances, you may even need to retain a tax attorney immediately if your error or omission could possibly be viewed as fraudulent with possible criminal prosecution.

There are four types of audits – correspondence; office audit; Small Case/Self-employed (SBSE); and Large and Mid-sized business (LMSB).

- o **Correspondence audits** are letters sent to you from an IRS Campus (Service Center) location and will identify specific issues for which the IRS is asking to be verified.
- o **Office Audits** are face-to-face with a Tax Compliance Officer (formerly, Office Auditor) and take place in an IRS facility. The Office Auditor will sometimes let you know what areas are being looked at, but not always.
- o **SBSE Audits** are conducted by Revenue Agents and can take place in either the taxpayer's location or an IRS office. These are face-to-face examinations. The Revenue Agents who conduct these audits may or may not tell you up front all of the areas they are investigating. They'll ask questions, request documentation and try to see if you've made an error – such as not reporting all of your income, or being unable to substantiate (provide evidence) your deductions.
- o **LMSB Audits** are face-to-face examinations that usually involve a team of general Revenue Agents and specialist Revenue Agents who are experts in employment tax and computer sciences, for instance.

Generally speaking, you should not attempt to handle your own audit. A seasoned representative will know how to respond to questions asked by the agent or auditor in a manner as not to

suggest other areas where further examination is warranted. Also, agents are usually pretty sharp. They may be asking you questions on one item hoping you will trip up and provide a basis for raising further issues.

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#### **My bank account was just levied. What should I do next?**

If the IRS levies on your bank account, your bank must hold the funds you have on deposit only on the particular day of the levy is received by the bank. The bank is required to remove whatever amount is available in your account that day (up to the amount you owe the IRS), and send it to the IRS in 21 days. This 21-day holding period allows you time to resolve any issues about account ownership of the bank account and also provides a period of time to negotiate with the IRS for a release. After the 21-day holding period, the bank must send the money plus interest earned on the seized amount to the IRS.

A levy on your wages is far more serious! This is a continuous levy – meaning, the IRS will CONTINUE to take a substantial amount of your take-home pay until they have collected all that is due, or a "deal" is worked out for an alternative payment plan (installment agreement or offer-in-compromise most likely). Of further concern, many employers have personnel policies that can result in employee termination if their wages are subjected to a government levy. They just do not want the potential controversy with the IRS or State over what the levy attached in the way of wages/earnings.

Regardless of the type of levy, you must act quickly! We strongly suggest that you secure the services of a tax professional to represent you before the IRS. The levy will be released either by working with the IRS or State tax agency directly, or by paying the full amount of the tax debt.

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#### **I just received a notice of Federal Tax Lien. What is this?**

Liens are different than levies. A lien is a legal instrument that is used as security for the tax debt. On the other hand, a levy is a legal action of taking your property to satisfy the tax debt.

A tax lien is a negative record on your credit report which usually significantly lowers your credit rating. This often makes it difficult for a taxpayer to obtain financing on an automobile or a home, get a credit card, or sign a lease. Tax liens are public records that indicate that you owe the IRS (or state agency) money. Tax liens are filed with the Clerk in the county where you live or where your business operates. Once a Federal or State tax lien is filed against your property, it will affect your ability to sell or transfer the property because of the cloud on its title. You need to act NOW!

Liens establish the priority of the IRS and State against other creditors and attach to all your assets as payment for your tax debt.

A Notice of Federal Tax Lien may be filed after:

- o The IRS has assessed the liability;
- o The IRS has sent you a Notice of Demand of Payment (a bill that tells you how much taxes you owe); and
- o You neglect or refuse to fully pay the tax debt within 10 days after the IRS notifies you.

The IRS will issue a Release of the Notice of Federal Tax Lien:

- o Within 30 days after you satisfy the taxes due (including interest and other additions) by paying the debt or by having it adjusted;
- o Or immediately upon payment with cash or the equivalent of cash, or
- o Within 30 days after the IRS accepts a plan, guaranteeing payment of the debt, or
- o A mortgage is given to the IRS against property that is worth twice the amount of your tax liability, or

## Taxes

- o Usually 10 years after a tax is assessed, a lien releases automatically, if the IRS has not filed the Notice of Federal Tax Lien again.

You may appeal the filing of a lien. You may also ask the responsible IRS Collection manager to review your case. In addition, you may request a Collection Due Process hearing with the IRS' Office of Appeals by filing a request for a formal Appeals hearing. You must file your Appeals request by the date shown on your notice. It's also important to attack tax liens that are invalid. A tax lien could be invalid if a lien is on property which is not owned by the debtor, a lien was filed during the automatic stay, a lien was recorded in the wrong county, or was for discharged taxes now being asserted on future-acquired assets.

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### **I have not filed my last two returns. What should I do?**

If you have tax returns that have not been filed, you really need to have a professional prepare your delinquent returns and then file them as soon as possible. If you make an effort to get back into compliance before the IRS takes action to force compliance, then you will have less of a chance of being audited or having substantial penalties imposed – or even worse, potential criminal prosecution for willful failure to file! In most situations, you will be faced with a delinquency penalty (based upon the tax due), failure to pay penalty and interest – computed from the due date of the return.

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