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# legal update



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## Delays in Responding to the IRS May Limit Your Alternatives

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Receiving notice that you will be audited by the Internal Revenue Service is one of the most stressful events most people endure. Likewise, not being able to fully pay your tax liability can be the source of many sleepless nights. Most correspondence received from the IRS provides a deadline for your response. Passing these deadlines without taking appropriate action will usually limit your options in either arguing that you do not owe the taxes or making manageable arrangements for paying taxes that you owe.

### **Audits**

If your return is selected for audit, there are three levels of review: correspondence, office, and field. Correspondence audits are the most basic form of review, often consisting of a request for copies of receipts or other documentation and nothing more. Office audits are conducted on more complex matters. If you are selected for an office audit, you will be requested to meet with a Compliance Officer at the IRS area office and to bring certain documentation. Office audits usually begin by focusing on one taxable year, but the scope may expand to other years if errors are found. Field audits are the most extensive review and are done by the most qualified Agents. If you are selected for a field audit, the Agent will be looking at all aspects of your return and, more likely than not, at all open taxable years.

Having representation at the early stages of the process of an office or field audit may enable you to have the audit held at the time and place most advantageous to your position. At this time, your representative can help you prepare for the audit, compiling documentation and spotting potential issues on which the examiner may focus. During the review process, your representative should be able to assist you in properly providing required documents, thereby limiting the scope of the review. Your representative will also be able to make legal arguments in favor of your position

before the examiner makes an assessment. After the audit, your representative will be able to guide you through the process of appealing any assessment, whether through administrative avenues or through litigation. The earlier you have representation, the more time you have for preparation and the more options your representative will have in assisting you.

## **Payment**

Sometimes taxpayers will complete their tax forms and realize that they cannot pay their tax liability. If this happens to you, do not fail to file your return. Even filing an extension without paying an estimated tax may result in penalties. However, these penalties can be avoided by making arrangements with the IRS.

The IRS has several different programs for authorizing installment agreements for the payment of tax liability. The possibility of negotiating payments is reduced greatly as the IRS proceeds through the collection process.

Collection of unpaid taxes begins at a regional Compliance Center. The Compliance Center automatically provides a series of correspondences, requesting payments of the tax liability due. If the Compliance Center fails to receive an adequate response, the matter is referred to the Automated Collection System (ACS). At this point, it is difficult for a taxpayer to obtain a personal meeting with an IRS representative. Therefore, any payment plans will be subject to the approval of a manager at ACS. Further steps include sending a Revenue Officer into the field for collection and hiring a contracted debt collection agency.

Absent payment or an installment agreement, the IRS has great latitude in collecting tax liabilities. One avenue is to place a lien on the taxpayer's property. The lien applies to nearly all the assets of the taxpayer. If perfected, the lien may prevent the delinquent taxpayer from transferring assets. For example, a lien on the taxpayer's house would veritably prevent the taxpayer from selling the house because the liability attaches to the new owner. Another of the IRS' powers is the levy. The levy is the actual taking of the taxpayer's property. This can include seizing property for auction and freezing bank accounts. Before the IRS levies any property, the taxpayer will be given notice of the intent to levy and will have the opportunity for a due process hearing if the taxpayer acts in a timely fashion.

## **Conclusion**

Whether you are being audited or already have an outstanding tax liability, proper representation can save you money, time, and headaches. Even at the later stages, IRS Agents are usually more reasonable and understanding across the table from an attorney than they are with the taxpayer. However, the earlier your representative gets involved, the more effective the representation will be.