YOU CAN GET YOUR TAX PROBLEMS SOLVED!

It's Easier Than You Think!

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Not every one of the solutions offered in this book will work for everybody. Therefore the author and publisher of this book do not guarantee that the methods described will resolve the tax problems of any specific taxpayer that attempts to follow them. They have used their best efforts in writing this book. They make no representation or warranty as to the accuracy, applicability or completeness of the materials presented. In no event shall they be held liable for any loss or other damages, including but not limited to special, incidental, consequential, or other damages. Every taxpayer should engage a competent, and qualified, professional in the tax representation field. These professionals are Certified Public Accountants, Certified Tax Resolution Specialists, Attorneys and Enrolled Agents.

You Can Get Your Tax Problems Solved!©

It's Easier Than You Think!

By

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Charles K. Montecino, is a Shareholder of Montecino & Ciaccia, P.A. As a Certified Public Accountant and Certified Tax Resolution Specialist, he has significant experience in helping clients solve their IRS problems, and clients say he does it with patience and, as one client put it, "without making me feel dumb." In 2008 he received the Top Practitioner Award from the American Society of Tax Problem Solvers.

Charles also works with owners of small businesses on their monthly bookkeeping, payroll, and QuickBooks needs and enjoys working with them to help them grow their businesses. He is a Certified QuickBooks ProAdvisor.

Charles has spent his 42-year career in public accounting, and 34 of the 40 years running his own firm. He is a licensed CPA in New Jersey and Pennsylvania and in addition is a CGMA, Chartered Global Management Accountant. He serves on the Cooperation with IRS Committee with the New Jersey Society of CPAs. He is a member of the American Institute of CPAs, New Jersey Society of CPAs, Pennsylvania Institute of CPAs, the American Society of Tax Problem Solvers, and the Gloucester County Chamber of Commerce.

Charles earned his accounting degree from Rutgers University. When he is not working, he enjoys baseball watching the Phillies and football, following both the Philadelphia 76ers and the Rutgers team. He also enjoys fishing, traveling, reading, spending time with his family including his two grandsons, and woodworking.

Meggan L. Ciaccia, CPA. CTRS

Meggan L. Ciaccia, CPA, is a Shareholder of Montecino & Ciaccia, P.A. With 12 years of diversified accounting experience, she loves the variety of work she does and loves working with so many different clients; every day is different. She also enjoys working with her father and finds that the most meaningful part of her job.

Meggan is a Certified Tax Resolution Specialist, which allows her to help clients who have received a letter from the IRS, who owe back taxes, or who need to file delinquent taxes. She is a licensed CPA in New Jersey and is also a CGMA, Chartered Global Management Accountant.

Meggan is a member of the American Institute of CPAs, New Jersey Society of CPAs, and American Society of Tax Problem Solvers.

Meggan earned a degree in social work from Rowan University and worked in the mental health field at the beginning of her career. She then took additional classes in accounting and business and earned her CPA designation which allowed her to transition to the accounting field which she now loves and has never looked back.

When Meggan is not working, she enjoys spending summers in Wildwood, reading, and Crossfit and is learning to knit. She resides in National Park, NJ with her husband John and two boys, Joe and Logan.

Montecino & Ciaccia, P. A., Certified Public Accountants

Montecino & Ciaccia, P.A. is a full service accounting firm serving individuals and owners of small and mid-sized businesses with their tax, QuickBooks, and accounting needs. The firm is known for its expertise in resolving IRS tax problems as well as providing monthly bookkeeping and QuickBooks services to small businesses in all industries, including services, retail, liquor, professional, construction, landscaping, manufacturing, distribution, and many others.

Founded in 1982 as Charles K. Montecino, CPA, the firm was renamed Montecino & Ciaccia, P.A. in 2014 and became a father – daughter establishment. Located in Sewell, New Jersey, the firm serves clients in New Jersey, Delaware, and Pennsylvania.

Introduction

There are three very important things you should know when dealing with the Internal Revenue Service and the various State tax agencies.

The first is you should open all of your mail and respond to it. That sounds like a very basic premise but it is surprising how many people come into our office with a stack of unopened mail. Many of those unopened envelopes are certified mail. What is in those letters is what has brought them to our office. In those envelopes are usually a Notice of Federal Tax Lien, a Notice of Wage Garnishment or a Notice of Levy. The prior unopened letters tell the tax payer that if they don't take certain action that one of these three things will happen.

The Federal Tax Lien is a public record that you owe money. It is filed with the county clerk (or whatever that position is called in your state) and tells the world that you owe income taxes. The credit reporting agencies pick it up and put it in your credit file and there goes your credit and the ability to borrow money.

The Wage Garnishment goes to the employer and tells them that you have unpaid income taxes and they are to take most of your take home pay each pay period and send it to the IRS. With this you might not have enough money to fill your gas tank to get home.

The Levy is sent to your bank telling them you have unpaid taxes. It also instructs them to take whatever money you have in your account at that date out of the account and send it to the IRS. This usually causes checks that have been written to pay bills to bounce and run up insufficient funds fees with the bank. Your bills that those checks were written to pay are now still due and your creditors now know you owe income taxes.

All of these actions might have been prevented if all the mail had been opened and they consulted with us instead of sticking their head in the sand.

The second is that you need to consult with a competent, qualified and trained, professional to see what your options are and what needs to be done to resolve the problem. The professional designations that are utilized the most are Certified Public Accountants, Attorneys and Enrolled Agents. Certified Public Accountants (CPA) and Attorneys are licensed by a state after passing a comprehensive exam. An Enrolled Agent (EA) has passed an exam administered by the IRS related to the tax code and tax administration. All three have to take continuing education to maintain and improve their skills and to keep their license. A Certified Tax Resolution Specialist

(CTRS) has passed an exam administered by the American Society of Tax Problem Solvers. This is a further specialty that sets one apart from another without this designation. A CTRS is also required to take continuing education to retain the designation. Don't just hire somebody because they had a catchy radio or TV ad, or a slick print ad. If it's possible get a personal referral from somebody that had a tax problem and had it resolved. Meet with them and size them up. Ask for somebody they've helped so you call them. We have a book of testimonial letters in our waiting area. Have a list of questions to ask before you make a decision. Who you hire is important and shouldn't be done on a whim.

The third is that every tax problem can be solved. The result you expect might not be possible to achieve. You might have to accept what is achievable.

We're not going to go into detail on every topic nor are we going to tell you how to complete the forms or pick your strategy. This is not a do it yourself manual, but an overview.

Chapter One

How Tax Problems Start

Tax problems start in many ways. They usually start small. You don't file one year because you're busy and don't have the time. Or you don't have the money to pay the balance due. Here are the most commons reasons for not filing:

- Job loss
- Medical issues
- Death in the family
- Economic downturn
- Business problems
- Marital problems

Let's discuss each of these and see what can be done.

Job Loss

The loss of a job is a very stressful time. There are both financial and emotional issues involved. Many of us, especially men, are defined by our jobs. When we meet somebody socially for the first time the first question asked is "What do you do?" None of us want to say we're unemployed. We've never been unemployed but in talking to our clients that are, or were, we can tell that it is a very stressful and humiliating experience. You are doing everything you can to support your family in the life style they experienced when you were employed. You especially don't want your children to suffer or do without what their friends have. Many people collecting unemployment don't have income taxes withheld because they need every penny. They think that when they get called back to work, or get a new job, they'll have taxes withheld and catch up. That almost never happens. Many times a distribution is taken from a retirement plan without adequate taxes withheld and when the return is prepared there is a 10 % early withdrawal penalty because the person withdrawing the money is under the age of 59 ½. Then the end of the year comes and you're still stressed because you're still out of work. You have your return prepared and you owe money that you don't have. In many instances the return doesn't get filed. We'll see in Chapter Five what happens when you have Unfiled Returns.

Medical Issues

What do you do when you're faced with huge medical bills, or need funds to pay for medical care? Most people will do whatever is necessary to see that they're family has the best medical care possible. In some instances taxpayers adjust their tax withholding downward to have more in their paycheck. They might withdraw funds from a retirement plan. If they're self-employed they might skip their estimated tax payments. Just as in the Job Loss above you owe money you don't have.

Death in the Family

This is even worse than the Medical Issues above if you're the one responsible for the funeral costs and final medical expenses. It's worse because you've lost a loved one. It might even be one that you relied on for their income.

Economic Downturn

The cost of everything is going up. Your employer cuts your hours. You no longer get overtime. That year-end bonus disappears. Income is down and costs are up. You fall behind on your bills, including your mortgage and credit cards. You work a deal with the credit card companies to write off a part, or even all, of your balance. Good deal right? Then in January you get a Form 1099-C from the credit card company telling you the amount forgiven has to be reported as income on your tax return. Unless you qualify to be considered as insolvent that amount needs to be reported and is taxable.

Business Problems

You lose a major customer. A supplier increases their prices to a crazy amount and you can't raise your prices to keep up. Insurance costs go up. Utilities go through the roof because the price of oil went up. What do you do? Many stop paying their quarterly estimates. Unfortunately, many stop paying their payroll taxes. We'll see what happens in Chapter Six what happens when you have Payroll Tax Problems.

Marital Problems

Many of those that come to us with tax problems also have, or had, a marital problem. We're not sure if the tax problem causes the marital problem or the reverse is true. The stress of one of these problems many times causes the other to pop up. When a marriage starts to fail and there is a separation the income stays the same but the increases increase. Paying for one household is tough enough. We can only imagine how expensive it is for two. Add in the cost of each spouse trying to outdo the other with the children. Not to mention the cost of a new "significant other."

All of these issues, and many more too numerous to mention, can cause tax problems. It could be in the form of unpaid returns or unfiled returns. You'll read more about them as we go along.

Chapter Two

Who To Go To For Help

When you find yourself facing IRS problems you have many different options available for representation. They are:

- Self-representation
- Certified Public Accountant
- Attorney
- Enrolled Agent
- Certified Tax Resolution Specialist
- Unenrolled tax preparers

Self-Representation

Self-representation is just what it means. You represent yourself. It's usually not a very good idea. In fact it's probably a very bad idea. Representing yourself (or ***not*** representing yourself) is probably what got you into trouble with the IRS in the first place.

Certified Public Accountant

A Certified Public Accountant (CPA) is licensed by a state. It's usually the state where they live or practice. They can only become a CPA after graduating from college with a required number of credits in accounting courses and additional business courses. In order to become a CPA they have to pass the CPA exam and have additional education and work experience requirements as required by that state. They also are required to take continuing education courses each year in order to maintain and improve their skills.

Attorney

An attorney is also licensed by a state. As with a CPA it's usually in the state where they live or practice. They also need to graduate from college and then go on to graduate from law school. They have to pass the bar exam in their state in order to become licensed and have additional education and work experience requirements as required by that state. They also are required to take continuing education courses each year in order to maintain and improve their skills.

Enrolled Agent

An Enrolled Agent (EA) is a tax practitioner authorized to represent taxpayers before the IRS. In order to become an EA they have to pass an exam administered by the IRS or be employed by the IRS for a certain number of years. They are also required to take continuing education courses each year in order to maintain and improve their skills.

Certified Tax Resolution Specialist

A Certified Tax Resolution Specialist (CTRS) is accredited by the American Society of Tax Problems Solvers (ASTPS). The ASTPS is the only non-profit, national, professional association of practitioners dedicated to solving tax problems. In order to obtain the CTRS designation you must first be a CPA, attorney or EA. You also need experience in the field of tax representation and pass an exam administered by the ASTPS. Continuing education courses are also required to maintain and improve your skills.

Unenrolled Tax Preparers

Unenrolled tax preparers can prepare a tax return and have a very limited ability to talk to the IRS about a return they prepared. They are not allowed to represent a taxpayer. They have no educational or experience requirements. In fact, they might not have any real knowledge of the tax laws.

Who you choose to represent you is your decision. Just because that person is a CPA, attorney or EA does not mean they have the qualifications to represent you. Do your homework. Ask around. Investigate them. This is a big step and you need to choose wisely.

Chapter Three

What The IRS Has Available To Solve Your Tax Problem

There are many options available to you if you owe the IRS. Not all are a fit for everyone. They all have their own requirements. The most common are:

- Penalty Abatements
- Payment Plans
- Currently Not Collectible
- Offer In Compromise
- Bankruptcy
- Innocent/Injured Spouse

As we get deeper into the book there will be a chapter on each of these alternatives.

Chapter Four

Determine The Correct Balance Due

You might be shocked to learn that the IRS sometimes makes mistakes and the amount they are attempting to collect is incorrect. That's right you read it here. The IRS sometimes makes mistakes. Notices go out to taxpayers every day that are incorrect.

One of the more common notices that are incorrect in many cases is a Notice CP-2000. This is a notice sent when they match the income reported on your tax return with income reported by third party payers and send a balance due notice. These notices could be wrong because the third party submitted incorrect information to the IRS or it could be wrong because you didn't properly complete your tax return. Investment brokers are required to report the sales of securities to the IRS. If you don't report these sales you will get a bill requesting that you pay tax on the whole sale amount as if it was all profit. We find that many people that come to us with a notice like this have a loss on the sale of these securities and are actually entitled to a refund. They think that if they lost money it's no big deal and don't report the sales.

With any notice for a balance due there is almost always an amount added for penalty and interest. You need to determine if the dates they have as the return being filed are correct so that you aren't being overbilled for the penalty. Check to see if the payments posted match what you paid. Occasionally a payment gets misapplied. When that happens you need to send a copy of the front and back of the cancelled check to them. They need both sides because there are codes on the back which helps them track down where the payment was posted. If a check is sent in without a payment voucher and a Social Security number on it they have no way of knowing where to post the payment. It gets posted to a suspense account waiting to be found.

There is computer software available to recalculate the penalties to determine if they are correct.

Don't just accept every notice as correct. If it says you have unreported income check your records to see if you omitted something. If it says a return was filed late check when you filed the return. If it says you paid your taxes late go to your checkbook to see when you paid the tax. See when the check cleared your account. If you get an unusually high electric bill you question it. An IRS notice is no different.

Chapter Five

Unfiled Returns

Unfiled returns are what brings most of our clients in this area of our practice in to see us. It is not uncommon to have somebody need to file seven or eight years of returns. Sometime there is money due and sometime there are refunds. Chapter One pretty much covered the reasons for unfiled returns. In this chapter we'll cover what happens when returns aren't filed.

The first thing that happens when you don't file a return is the IRS takes all the income reported in your Social Security number and determines whether a return was required or a balance is due. If they determine that your income and tax withheld would have generated a refund you will never hear from them. They will not tell you that you have a refund. Nor will they send you a refund. It is lost. You snooze you lose.

If they determine there is enough income that there is a balance due a Substitute For Return (SFR) is filed by them on your behalf. You almost never want them to do this. They will take the filing status of the last return filed as a starting point. For example, if you're married they will use married filing separately as your filing status. That is a higher tax rate schedule than married filing a joint return. You will not get an exemption for any children. You won't get a deduction for any itemized deductions. This includes medical expenses, real estate taxes, mortgage interest, contributions or miscellaneous expenses such as work related expenses or gambling losses. If you are self-employed it's even worse. You will get no business deductions. The assumption is that all the income is taxable and the self-employment tax is due on all of the income.

Should you ever get a notice that no return was filed you need to file the correct return immediately in order to determine the correct balance due, or refund if there is one.

The penalty for filing a return with a balance due late can be stiff. In addition to the interest the penalty is calculated at 5 % per month up to a maximum of 25 % of the tax due with the return.

The penalty for filing a return with a refund due can be even stiffer. There is no interest or penalty due on a return with a refund. However, you only have three years from the due date of the return to file that return to get your refund. If the return is not filed within that time period you can say goodbye to the refund. However, balance due returns still have to be paid even if it's after three years.

In all of our years of practice we've seen many people lose their refunds due to the three year rule. We've also had many clients with years where they lost the refund but had balances due on the more recent years. They had to pay those balances without the benefit of being able to use the refunds to offset the balances due.

Chapter Six

Payroll Taxes

In Chapter One we covered the reasons a business might get into trouble with payroll taxes. Payroll tax return issues fall into two categories.

The first is not filing the returns. The penalties for not filing a payroll tax return are the same as for the returns mentioned in Chapter five. It is 5 % a month with a maximum of 25 % of the tax due with the return. Payroll tax penalties are usually much higher than the penalties on income tax balances because the taxes withheld are usually higher. A quarterly payroll of $ 100,000 might easily have a tax due of $ 30,000. That is for the federal income tax, Social Security and Medicare taxes withheld from the employees in addition to the employer match of Social Security and Medicare taxes. If that return is filed five months late, without the proper payments, and the maximum penalty of 25 % is assessed, the penalty is $ 7,500, in addition to the interest. If the returns are filed on time but not paid then there is no late payment penalty.

The second is not paying the taxes when due. In addition there is a penalty for the failure to make timely tax deposits. The withheld income tax, Social Security tax and Medicare tax are known as "trust fund" taxes. That means the employer withheld them in "trust" for the IRS. If they are not paid the IRS will conduct an investigation in order to determine who was the person responsible for not paying the taxes when due. They interview the people involved to determine who paid all the other bills first and not the IRS. They want to know who made the decision to use the employees' taxes to pay the companies bills. They will then assess a Trust Fund Recovery Penalty against those individuals for the amount of the withheld taxes not paid to the IRS. The responsible person does not need to be the owner, or all the owners. It could be a non-owner with the financial making decision power who kept the owner in the dark. It could be the bookkeeper who was embezzling funds. The IRS will then attempt to collect the unpaid taxes from those individuals. None of their assets or income is protected from the collection procedures.

Chapter Seven

Penalty Abatements

Once you've determined that the tax, interest and penalty they are attempting is correct it's time to see if you qualify for a penalty abatement. Most of our clients tell us that they can pay the tax and interest but the penalties are a killer. As was discussed earlier they can be 25 % of the tax for failure to file on time and even more for a failure to make timely tax deposits.

The IRS can abate (remove) a penalty for late filing if there is reasonable cause for the late filing of the return. Determine the reasons for the late filing and write them a letter giving the facts and circumstances which kept you from filing on time. Be as specific as possible. If you have any documents to support your request attach copies to the letter.

There are any number of reasons that will qualify for reasonable cause. Some of them that we've used are:

- Illness, either the taxpayer or a family member
- Death in the family
- Incarceration
- The taxpayer or a family member in rehab
- Records lost or not available
- Traveling for business
- Prior tax practitioner did not complete the returns in time to file
- Disability of the taxpayer, either physical or mental
- Natural disasters
- Property damage to the home or business which caused a loss of records
- Marital infidelity on the part of the other spouse

All of these go to the state of mind of the taxpayer at the time the return was due. These, and many others, could cause a person to not be in the right state of mind at that time. It doesn't mean you were crazy, just not necessarily thinking straight. Not having the money to pay the tax is not a reasonable cause to file a return late, but the underlying stress of not being able to pay just might be.

We've never tried the dog ate my homework but we guess the dog could eat the bank statements! Whatever you do make sure you can document the reason you give. You don't want to be asked for documentation and not have it. Don't make something up. In all the penalty abatement requests we've written we don't recall ever having to prove the reason for the request. But the next one we write could be the first.

Chapter Eight

Installment Agreement

When you’ve determined the tax, penalty and interest is correct it’s time to figure out how you’re going to pay the balance due. Your options are:

- Write a check
- Installment agreement (payment plan)
- Currently not collectible
- Offer in Compromise
- Bankruptcy
- Innocent spouse

The first needs no explanation, if you have the money. We’ll go over the last four options in the next four chapters. In this chapter we’ll discuss installment agreements.

When you don’t have the funds to pay the balance due and you don’t qualify for the last four options an installment agreement needs to be entered into in order to avoid garnishments, levies and liens.

If your total liability is less than $ 50,000 and you can pay it off in monthly installments within six years you can get a streamline installment agreement without providing the IRS with your financial information.

If your liability is over $ 50,000, or you cannot pay it off in full within six years you will need to provide your financial information. For an individual it is a Form 433-A *Collection Information Statement for Wage Earners and Self-Employed Individuals* or Form 433-B *Collection Information Statement for Businesses*. These will show the IRS your ability to pay on a monthly basis. There are occasions when the monthly payment might be more as reflected when submitting these forms than the streamline installment agreement mentioned in the above paragraph. If that is the case you might want to go with the streamline agreement to keep your monthly payment lower.

Don’t ever agree to a monthly payment that is more than you know you can afford every month. You can always pay more. If you pay less or skip a payment you are in danger of having the installment agreement defaulted and the whole collection process starts over. It is also harder to get a second agreement after a default.

Chapter Nine

Currently Not Collectible

If you don't qualify for an installment agreement, or any of the other options noted in Chapter Eight, you might qualify for a Currently Not Collectible status. If after completing the Form 433-A or 433-B the IRS might agree that you have no assets to liquidate to pay the balance or any available cash flow on a monthly basis to make payments.

They can then put you into this status. Penalties and interest will continue to be added to your balances. The collection activity stops and the ten year statute of limitations on collections continues to run, meaning that while they leave you alone the time they have to collect decreases.

This is not a solution but only a band aid. It stops the collection process but doesn't make it go away. It gives you time to pursue other options and time to improve your financial condition so you can come up with a permanent solution. They will usually ask for updated financial information on an annual basis to see if your ability to pay has changed and they should take you out of this status.

Chapter Ten

Offer In Compromise

With an Offer in Compromise (OIC) you pay the IRS what you can afford based upon your assets and a cash flow multiple and the tax liability goes away. It's not quite that simple but that's the premise.

There are three types of OICs:

Exceptional Circumstances

This is also known as Effective Tax Administration. This is when you have sufficient assets to pay the full amount, but due to exceptional circumstances, requiring full payment would cause an economic hardship or would be unfair and inequitable. This is the most difficult type of OIC to have accepted. We've submitted a few and all have been rejected. We thought they met the criteria but unfortunately the IRS didn't.

Doubt as to Liability

This is when you don't feel as though you owe the tax. It's usually used for the trust fund penalty as explained in Chapter Six.

Doubt as to Collectibility

This is when you have insufficient assets and income to pay the full amount. This is the most often filed and the one that we'll expand on.

A Form 433-A as described in Chapter Eight needs to be completed first in order to determine the value of the assets to be included and the new cash flow available. There are limits on some of the expenses, meaning you don't get to use the actual expenses you pay but a standard as determined by the IRS. These are living expenses, housing and utilities, vehicle ownership costs and vehicle operating expenses. You take the cash flow and multiply it either by twelve or twenty four, depending upon how quickly you can pay the total offer amount. You don't get to decide how much to offer, it is a very finite formula that needs to be followed.

When it's accepted and you pay the offer amount the balance of your tax liability goes away. You do need to file your returns and pay any balances due on time for five years after the OIC is accepted. If you don't comply with this then they will take all of the unpaid taxes that were written off and start the collection process over again. Over the years we've had a few clients not comply with these rules and their nightmare began again. Our experience is that a taxpayer that defaults on an OIC doesn't get much sympathy from a Revenue Officer. Most to them have either done another OIC or filed bankruptcy, a step they otherwise wouldn't have needed to take.

Chapter Eleven

Bankruptcy

Filing bankruptcy to eliminate a tax debt is usually a last resort. Don’t let anybody tell you that income taxes cannot be discharged in bankruptcy. Trust fund taxes cannot, but income taxes can. Over the years we’ve heard bankruptcy attorneys say that income taxes can never be discharged in bankruptcy. You should see their embarrassment when we explain the rules to them.

All three of these conditions need to be met:

The years in question must be at least three years old. You cannot discharge the most recent three years of tax liability.

The tax balances to be discharged must be from returns that have been filed for at least two years.

The taxes must have been assessed by the IRS at least 240 days prior to filing the bankruptcy petition.

In Chapter Five we talked about Substitute For Returns. These can never be discharged since they are not considered a tax return filed by the taxpayer.

Chapter 12

Innocent/Injured Spouse

Innocent Spouse

There is a distinction between an innocent spouse and an injured spouse.

An innocent spouse is someone that the IRS is attempting to collect a tax debt from that is not responsible for the taxes on the return. This is typically due to a joint tax return being filed and one spouse not being responsible for the tax debt but the IRS is still trying to collect from them.

There are three steps which need to be applied:

The first is to determine if Innocent Spouse applies. This only applies when there is an understatement of tax on the filed return and the couple is still together. If that doesn't apply you go to the next step.

In this step you see if Separation of Liability applies. This only applies when there is an understatement of tax on the filed return and the couple is no longer together. If this doesn't apply you go to the next step.

Here you see if Equitable Relief applies. This applies when there is an underpayment or an understatement of the tax on the filed return.

If you are the one requesting relief you can't have benefitted from or been involved in the underreporting or underpayment. If you were involved and aware you probably will not get relief.

Injured Spouse

The injured spouse provisions are used when a married couple wants to file a joint return to get the benefits of the married filing joint tax rates. In this case one spouse owes money that the IRS is trying to collect. It could be taxes that the other spouse is not liable for, student loans, unpaid child support or alimony or state taxes. A Form 8379 Injured Spouse Allocation is filed with the return. On this form the income, expenses and exemptions are allocated to the appropriate spouse. The IRS then makes a determination of how much of the refund belongs to the injured spouse. That amount is sent the injured spouse and the remainder is kept and applied to the debt of the other spouse.

Chapter Thirteen

Lien Withdrawals

When the IRS files a Federal Tax Lien all kind of bad things happen to you. The lien is filed with the county clerk, or whatever that position is called in your state, and it then becomes public record. The credit reporting companies pick it up and your credit rating immediately takes a nosedive. You can't borrow money. The interest rate on your credit cards will go up. Bottom feeders write and call you with empty promises that they will solve your tax problem. They will give you an amount that the balance will settle for without knowing any of your financial information. All too often they will take your money, do nothing, break your heart and make you mistrust all of us that practice in the area of tax resolution.

If you enter into an installment agreement with a direct debit of your monthly payment you might be able to get the lien released. When the balance is satisfied the lien will be released. That is with a full payment, bankruptcy, offer in compromise or the collection statute expiring. When the lien is released it's important that you send a copy to the credit reporting companies and request they enter the information. Even after that it's still on your record.

In order to make it go away you need to file a Form 12227 Application for Withdrawal of Notice of Federal Tax Lien. After this is filed and accepted by the IRS they will withdraw the lien. You might ask what the big deal is. A release is still in the record. A withdrawal takes it out of the records. It's like a big eraser. It disappears. You will then want to send it to the credit reporting companies with a request that it be removed from your file. Also send it to all of your creditors with the same request. Your credit rating should immediately go up.

A lien can only be withdrawn when the liability is satisfied as a result of full payment, abatement of completion of the terms of an OIC. A bankruptcy would be considered an abatement. The lien will not be withdrawn because of the expiration of the collection statute. We've tried and it doesn't work.

Chapter Fourteen

Audits

One of the worst letters you can get from the IRS is the letter that starts with the words "congratulations, your tax return has been selected for audit". I'm only kidding. It doesn't say congratulations. You have the right to representation in the audit. It is a very rare instance that a taxpayer should go in alone. There three basic types of audits.

Correspondence Audits

In this type of audit they have very specific items they need documentation on. It is usually something deducted on Schedule A such as medical expenses, contributions, real estate taxes or mortgage interest expense. This should be fairly simple and you should be able to handle it.

Office Audit

Just as it says, these are conducted in their office, usually with a tax compliance officer. Again they are looking for very specific things and the letter notifying you of the audit will list them. This audit usually takes approximately two hours. These are usually for a basic return and possibly a small Schedule C (business) or Schedule E (rentals).

Field Audit

These are usually for business returns or individuals with a large or complicated business as part of their personal return. The audit letter will be specific in what they want to see. It will usually be conducted by a Revenue Agent. It will usually take more than one day and if they have to come back again it will usually be because they need additional information or records to examine. These can go on for months due to the workload and schedule of the Revenue Agent. These audits are usually conducted in the office of your representative without you there.

All three of these types of audits should be taken very seriously. When they aren't that's when they drag out and usually result in a large upward tax adjustment.

Chapter Fifteen

State Tax Issues

Most of various states and many large cities also impose income taxes in addition to sales tax, employer withholding and other miscellaneous taxes. Many of the rules for filing, collection, penalties and interest are similar.

The bottom line is you have to file and pay. If you can't then there usually is a way to work it out.

Conclusion

We hope that you've found this to be informative and helpful. You have to face the problem head on. You can't ignore it. There are many options to solve your problem. Not all of them are going to be an option for you. Usually there is more than one option to choose from. Choose wisely. Choose the one that is least painful, costs the least, but most importantly makes the problem go away permanently. Learn from your mistakes. We all make them. Just don't keep making the same mistakes. It's said that insanity is doing the same thing over and over and expecting a different result.

But the most important thing to remember is that

IRS PROBLEMS DON'T GO AWAY BY THEMSELVES!