



Dealing with the IRS Collection Division: A Primer

Eric L. Green, Esq.
Green & Sklarz LLC

Eric L. Green

- Eric is a partner with Green & Sklarz, LLC in Connecticut & New York.
- The focus is civil and criminal taxpayer representation
- Have served as adjunct faculty at the University of Connecticut School of Law
- Author of "The Accountant's Guide to Dealing with the IRS Collection Division"
- Columnist of CCH's Journal of Tax Practice & Procedure
- Past Chair of the Executive Committee of the Tax Section of the Connecticut Bar Association and a Past Chair of the ABA Tax Section Subcommittee on Closely Held Businesses.
- Fellow of the American College of Tax Counsel

Discussion Topics

- The Tax Gap
- Handling the collection client
- IRS Collection procedures
- Collection tools — liens and levies
- Opportunities and strategies for resolving the taxpayer's issue



The Tax Gap



- Every tax return in the U.S. is audited
- The IRS uses the Discriminate Function (DIF) system to select tax returns for examination
- NRP Program launched to update the DIF
- Tax Gap: \$406 billion per year!

Why Collection Is the Hottest Area Now!

Year	Accounts in Collection
2005	6,478,000
2006	7,074,000
2007	8,240,000
2008	9,232,000
2009	9,667,000
2010	10,391,000
2011	10,809,000
2012	11,464,000
2013	11,721,000
2014	12,410,000
2015	13,371,000
2016	14,005,000

IRS Collection Process

- Assessment of the tax
- 10-Year Collection Statute
- Billing Notices
- Threat to levy and right to a hearing
- Appeals: CDP, Equivalent and CAP



IRS Collection Process

Assessment



- The IRS will assess the tax when the return is received and processed or it creates a "substitute for return" (SFR) for the taxpayer
- Pull transcripts to determine the exact date of assessment

IRS Collection Process

10-Year Statute

- Pursuant to IRC §6502 the IRS has 10 years to collect a tax debt
- The 10-year statute begins upon the date of assessment, not the date of filing
- There are a number of actions that will toll, or suspend, the collection statute



IRS Collection Process

10-Year Statute

- Issuance of a notice of deficiency — IRC §6503(a)
- Assets of the taxpayer are in custody of a court — IRC §6503(b)
- The taxpayer is outside the United States for a continuous period of six months or more — §6503(c)
- A wrongful seizure of property or wrongful lien on property — §6503(f)

IRS Collection Process

10-Year Statute

- Taxpayer files bankruptcy—IRC §6503(h)
 - The time for a bankruptcy plus six months!
- Filing of a Collection Due Process hearing request—Regulation §301.6330-1(g)
- Filing of an Offer in Compromise—Regulation §301.7122-1(i)
- Pending Installment Agreement - IRC §6331(i)(5)

IRS Collection Process

Billing Notices



- The initial billing notice
- The Notice of Intent to Levy
- The Final Notice of Intent to Levy and the Taxpayer's Right to a Hearing

Billing Notice — CP 501



Notice CP501
 Tax year 2006
 Notice date February 16, 2009
 Social Security number [REDACTED]
 To contact us [REDACTED]
 Call center number [REDACTED]
 Page 1 of 4

You have unpaid taxes for 2006.
Amount due: \$9,533.53

Our records show you have unpaid taxes for the tax year ending on December 31, 2006 (Form 1040).

Billing summary	
Amount you owed	\$9,444.07
Failure to pay penalty	24.96
Interest charges	64.50
Amount due by February 26, 2009	\$9,533.53

What you need to do immediately

Pay immediately
 • Send us the amount due of \$9,533.53 by February 26, 2009, to avoid additional penalty and interest charges.

Threat to Levy — CP-504



Notice CP-504
 Tax year 2009
 Notice date March 2, 2009
 Social Security number [redacted]
 To contact us [redacted]
 Call center number [redacted]
 Page 1 of 6

Notice of intent to levy
Intent to seize your property or rights to property
Amount due immediately: \$3,999.86

As we notified you before, our records show you have unpaid taxes for the tax year ending December 31, 2009 (Form 1042). If you don't call us immediately to pay the amount due by March 12, 2009, we may seize ("levy") any assets we intend to which you've enrolled and apply it to the \$3,999.86 you owe.

If you still have an outstanding balance after we seize any state tax refund, we may take possession of your other property or your rights to property.

Billing summary	
Amount you owe	\$3,999.86
Failure to pay penalty	246.26
Interest charges	(17.22)
Amount due immediately	\$3,999.86

Ltr 11



Notice LTR11
 Notice date March 2, 2009
 Employee ID number [redacted]
 To contact us [redacted]
 Your call center ID [redacted]
 Page 1 of 5

Notice of intent to levy
Intent to seize your property or rights to property
Amount due immediately: \$ [redacted]

We haven't received a payment despite sending you several notices about your overdue taxes. The IRS may seize (levy) your property or your rights to property on or after April 1, 2009.
 Property includes:

Billing Summary	
Amount you owe	[redacted]
Additional penalty charges	[redacted]
Additional interest charges	[redacted]

Ltr 11

What you need to do immediately

- Pay immediately**
- Send us the amount due of \$ [redacted] or we may seize (levy) your property on or after April 1, 2009.
 - If you can't pay the amount due, pay as much as you can now and make payment arrangements that allow you to pay off the rest over time. Visit www.irs.gov/payments for more information about:
 - Installment and payment agreements—download required forms or save time and money by applying online if you qualify
 - Automatic deductions from your bank account
 - Payroll deductions
 - Credit card payments
 - Or, call us at [redacted] to discuss your options.
 - If you've already paid your balance in full or think we haven't credited a payment to your account, please send proof of that payment.

Author's Comment:
 It is critical that the Form 12153 with the taxpayer's appeal be filed within the 30 days!

Right to request a Collection Due Process hearing.
 If you wish to appeal this proposed levy action, complete and mail the enclosed Form 12153, Request for a Collection Due Process or Equivalent Hearing, by April 1, 2009. Send the form to us at the address listed at the top of page 1. Be sure to include the reasons you are requesting a hearing (see section 8 of, and the instructions to, Form 12153) as well as other information requested by the form. If you don't file Form 12153 by April 1, 2009, you will lose the ability to contest Appeals' decisions in the U.S. Tax Court!

IRS Collection Process

Final Notice and Right to a Hearing

- Final Notice includes Form 12153
- Taxpayer has 30-days to request a hearing
- You **MUST** file the request
- If the 30-day window is missed, file for an equivalent hearing



Form 12153

Request for a Collection Due Process or Equivalent Hearing

6. Basis for Hearing Request (Both boxes can be checked if you have received both a lien and levy notice)

- Filed Notice of Federal Tax Lien Proposed Levy or Actual Levy

7. Equivalent Hearing (See the instructions for more information on Equivalent Hearings)

- I would like an Equivalent Hearing - I would like a hearing equivalent to a CDP Hearing if my request for a CDP hearing does not meet the requirements for a timely CDP Hearing.

8. Check the most appropriate box for the reason you disagree with the filing of the lien or the levy. **See page 4 of this form for examples.** You can add more pages if you don't have enough space. If, during your CDP Hearing, you think you would like to discuss a Collection Alternative to the action proposed by the Collection function it is recommended you submit a completed Form 433A (Individual) and/or Form 433B (Business), as appropriate, with this form. See www.irs.gov for copies of the forms.

- Collection Alternative Installment Agreement Offer in Compromise I Cannot Pay Balance

IRS Collection Process

Appeals: CDP

- 1998 IRS Restructuring and Reform Act created appeal rights for Collection Cases and gave the United States Tax Court authority to hear collection appeals
- The IRS is required to give the taxpayer 30 days to request an appeal prior to levying
- This appeal is referred to as Collection Due Process Appeal, or CDP

IRS Collection Process

Appeals: CDP

- If the Form 12153 is filed within 30 days requesting a CDP hearing, the case will be forwarded to Appeals
- All collection action will cease for that tax period, unless the taxpayer continues to pyramid liabilities
- If the taxpayer continues to incur new tax liabilities, Appeals may grant tax collection division the authority to continue enforced collection activity

IRS Collection Tools

Levies

- The seizure of a taxpayer's property
- Generally issued when a taxpayer has either failed to respond to IRS requests or failed to provide the collection division information



IRS Collection Tools

Liens

- Pursuant to IRC §6321, a lien arises automatically whenever demand for payment is made and the taxpayer fails to pay
- No other action is required of the IRS
- IRS may file a Notice of Federal Tax Lien
 - Though the lien arises without any further IRS action, the IRS filed the Notice to inform third-party creditors of the IRS lien on the taxpayer's assets to protect its (the IRS's) interest

IRS Collection Tools

Liens

- IRC §6320 grants the taxpayer the right to a hearing to contest the filing of a notice of federal tax lien
- Pursuant to IRC §6322 the lien will continue in force until the tax is either paid, compromised, or the 10-year collection statute expires

Resolving a Federal Tax Debt

Installments, CNC and Offers

- Four Options for resolving an outstanding tax debt
 - Installment Agreements
 - Offers-in-Compromise
 - Currently-Not-Collectable
 - Bankruptcy

Resolving a Federal Tax Debt

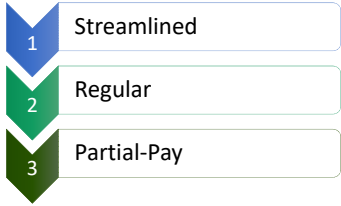
Installments, CNC, and Offers



- The decision of which option to use will depend entirely on the taxpayer's unique set of circumstances
- How much time is left on the statute?

Resolving a Federal Tax Debt *Installment Agreements*

- There are three types of Installment Agreements



Resolving a Federal Tax Debt *Currently Not Collectable (CNC)*

- What is "CNC" status?
- How CNC status is determined?
- When should you seek CNC status?
- Time to file an Offer?



Resolving a Federal Tax Debt *Offer in Compromise (OIC)*

- What is an Offer in Compromise, or OIC?
- When to consider filing an Offer?
- Types of Offers available?



Resolving a Federal Tax Debt *Offer in Compromise (OIC)*



- How does the IRS review Offers?
 - Asset Analysis
 - Income Analysis

Resolving a Federal Tax Debt *Offer in Compromise (OIC)*

- Issues with Offers
 - Dissipated Assets
 - Income Averaging



Bankruptcy

3-Year Rule	2-Year Rule
240-Day Rule	No Fraud
No Trust Taxes	No SFR

Questions?