TAXPAYER GUIDE

Tax Relief Advisers

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In 2014 the IRS adopted the "*Taxpayer Bill of Rights*". This list consists of 10 rights that create standards for the IRS, and help taxpayers navigate the tax system.

The Right to Be Informed

Taxpayers have the right to know what they need to do to comply with tax laws. They are entitled to clear explanations of the law and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. They have the right to be informed of IRS decisions about their tax accounts and to receive clear explanations of the outcomes.

The Right to Quality Service

Taxpayers have the right to receive prompt, courteous, and professional assistance in their dealings with the IRS, to be spoken to in a way they can easily understand, to receive clear and easily understandable communications from the IRS, and to have a way to file complaints about inadequate service.

The Right to Pay No More than the Correct Amount of Tax

Taxpayers have the right to pay only the amount of tax legally due and to have the IRS apply all tax payments properly.

The Right to Challenge the IRS's Position and Be Heard

Taxpayers have the right to raise objections and provide additional documentation in response to formal IRS actions or proposed actions, to expect that the IRS will consider their timely objections and documentation promptly and fairly, and to receive a response if the IRS does not agree with their position.

The Right to Appeal an IRS Decision in an Independent Forum

Taxpayers are entitled to a fair and impartial administrative appeal of most IRS decisions, including many penalties, and have the right to receive a written response regarding the Office of Appeals' decision. Taxpayers generally have the right to take their cases to court.

The Right to Finality

Taxpayers have the right to know the maximum amount of time they have to challenge the IRS's position as well as the maximum amount of time the IRS has to audit a particular tax year. Taxpayers have the right to know when the IRS has finished an audit.

The Right to Privacy

Taxpayers have the right to expect that any IRS inquiry, examination, or enforcement action will comply with the law and be no more intrusive than necessary, and will respect all due process rights, including search and seizure protections and a collection due process hearing where applicable.

The Right to Confidentiality

Taxpayers have the right to expect that any information they provide to the IRS will not be disclosed unless authorized by the taxpayer or by law. Taxpayers have the right to expect the IRS to investigate and take appropriate action against its employees, return preparers, and others who wrongfully use or disclose taxpayer return information.

The Right to Retain Representation

Taxpayers have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS. Taxpayers have the right to be told that if they cannot afford to hire a representative they may be eligible for assistance from a Low Income Taxpayer Clinic.

The Right to a Fair and Just Tax System

Taxpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels.

OWE MONEY TO THE IRS?

Three things you should understand about the IRS. First, they are the most powerful collection agency in the world. Second, your tax debt won't simply go away. Third, the IRS will not stop collection efforts until the debt has been settled.

If you're trying to work out your tax issues on your own your options are limited. The problem is a lack of knowledge. The IRS will not tell you your options or give you any legal advice. Depending on your situation, and how much you owe, hiring a professional to help can save you thousands of dollars.
Beware of tax companies who promise to settle your debt for "pennies on the dollar". This is possible if the IRS determines your debt is uncollectable. However, in many cases settlement is not an option. You need to know what other alternatives you have and work them in your favor. Below are some potential options:

Offer in Compromise/Settlement

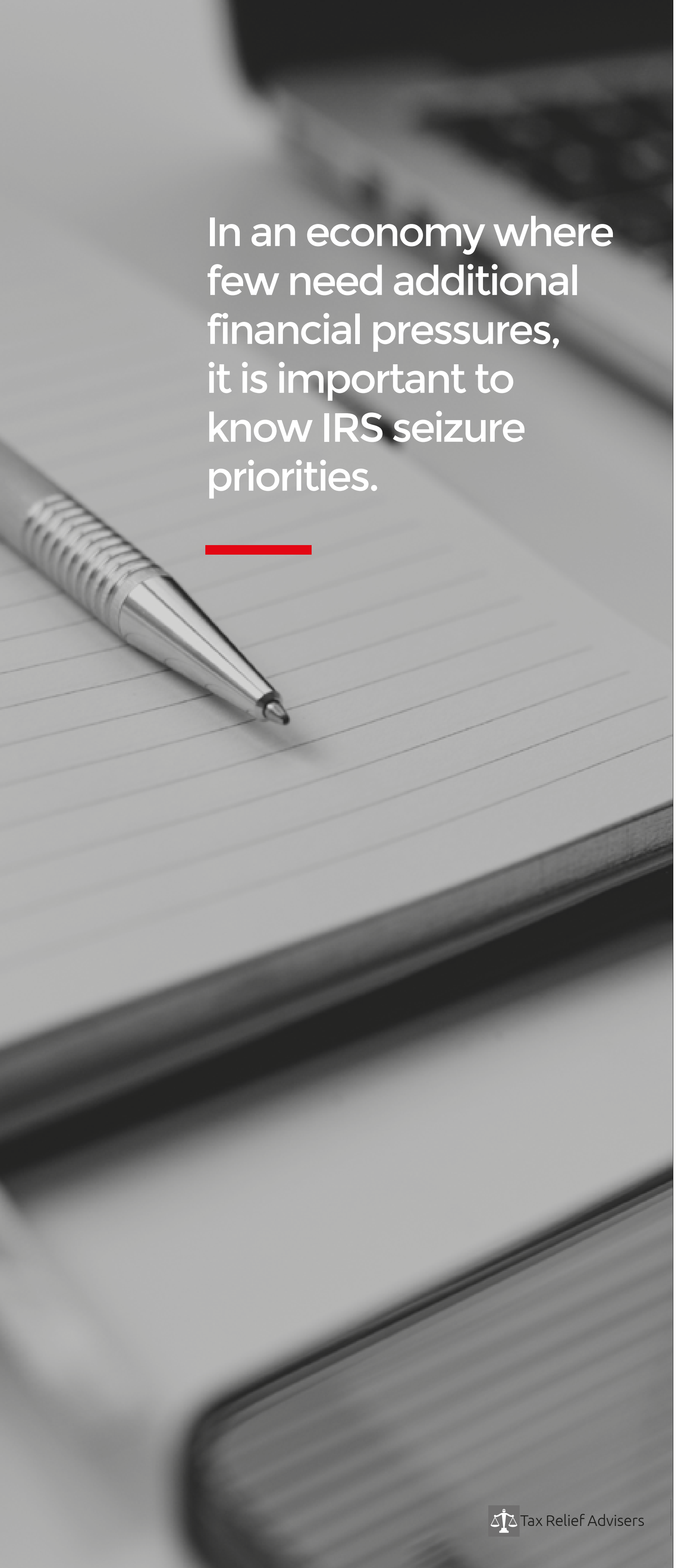
This is a settlement where the IRS agrees to take less than what you owe them. Unless you can show extreme hardship chances are you will be looking at an alternative.

Payment Plan

You make payments on your tax debt until it is paid. In most cases, you will also be paying interest and penalties. It is possible to negotiate an abatement of interest and penalties in some situations.

Partial Payment Plan

A partial payment agreement happens when a taxpayer can't afford the entire payment but can afford a reduced payment.



Currently non-collectible status

If the IRS determines the tax debt is uncollectable it ceases collection action.

Innocent Spouse Relief

This releases one spouse who was unaware of fraudulent or incorrect information submitted to the IRS by their spouse on a jointly filed return.

Collection actions the IRS can take.

Tax debt doesn't disappear if you simply ignore it. You can wait out your tax debt statute of limitations but, this takes 10 years from the time the tax is assessed, or longer. As the time winds down on the statute of limitations the IRS becomes more aggressive in their collection efforts. In addition, be aware the IRS can take collection action without going to court. Here are some of the things they can do:

- Garnish your wages
- Levy your bank account
- Take your house, car, and other assets
- Take your business
- Take your retirement

IRS seizures of houses, personal belongings, and business property are rare

In an economy where few need additional financial pressures, it is important to know IRS seizure priorities. For most, the fear of having the IRS seize a house, personal belongings or business property is greater than the reality. IRS seizures of personal and business property are rare.

The real enforcement action is directed towards liquid assets — bank accounts and wages. Compare the 600 seizures the IRS made in 2009 on real and personal property to the 3.5 million levies it issued on liquid assets. When negotiating with the IRS, it is important to know what is at risk.

There is a reason for the low "hard asset" seizure rate. If real or personal property lacks equity, the IRS will not seize it. Internal Revenue Code 6331(f) prevents the IRS from making an "uneconomical levy" meaning there must be an economic recovery for the IRS to do it.

Internal Revenue Manual 5.10.1.2 mirrors the tax code by stating that seizures are prohibited "where the taxpayer has insufficient equity in the property."

Retirement accounts are not protected from IRS collection actions

Retirement assets are still considered a safe haven from creditors in troubled times. Even with a civil court judgment a creditor will not be able to reach the money in a qualified retirement plan, but the IRS can.

Internal Revenue Code 6334(a) lists the few assets that the IRS cannot reach. The list does not have any exemption as to levying retirement assets.

If the Internal Revenue Code does not specifically list an asset as exempt from the IRS collection powers — like retirement accounts — it is fair game.

Even though retirement accounts are not exempt from IRS collection powers, there are defenses. To defend a retirement account from the IRS, it is important to understand that the IRS "stands in shoes" of the taxpayer and can only get what the owner can get. Most retirement plans do not provide for present rights to the money — allowing access only at separation from service, retirement or death/disability. In most cases, the statute of limitations on collection would pass before the account becomes "liquid" for the IRS.

Proper handling, negotiation and an understanding of the process is extremely important as to defending this very sensitive asset.

The IRS has limits on the amount of time it has to collect a tax debt

There is a 10-year statute of limitation on the collection of taxes (Internal Revenue Code Section 6502). Internally, IRS personnel refer to this drop dead date by the acronym "CSED," short for Collection Statute Expiration Date. The 10-year time period does not start until the tax is assessed, meaning when the tax return was filed.

But certain acts can extend the statute of limitations — something to always consider before plunging in with remedies. A favorite remedy — the filing of an offer in compromise – will extend the statute of limitations on collection by the time it is pending plus 30 days. As a compromise can take up to two years to complete in some cases, it is important to look before your leap.

Running out the collection statute expiration date is a strategy that must be implemented carefully, understanding when it is an appropriate remedy and what actions taken can inadvertently extend the timeframe.

After 10 years, the IRS will clear the account balances to zero. The IRS will make an entry in its database reading "Balance cleared to zero — expiration of statute collection date." Any tax liens that were filed will also expire and become legally unenforceable.

Bankruptcy is a powerful tool that is capable of eliminating taxes

Taxes that are not resolved by an IRS offer in compromise can be eliminated in a Chapter 7 (with restrictions-see below). Installment agreements and reductions in amount owed — may be obtained in a Chapter 13 repayment plan. Also, Chapter 13 adds the intriguing possibility of stopping the accruals of interest and penalties while payments are made — a virtual impossibility with direct IRS negotiations.

There is a test to determine if bankruptcy will work: Bankruptcy can discharge an income tax liability if the return is more than three years after it was due to be filed, and the return was filed more than two years prior, whichever is later. What cannot be discharged will require you to pay some of the IRS debt.

IRS put a levy on my bank account

The IRS has levied my bank account and there was not enough funds to cover the total levy. Will the IRS levy all future deposits until it is satisfied or can I continue to deposit and pay my bills?

The IRS finds your bank account because your bank sent them a notice of interest earned, you paid a check to the IRS, or you provided the information in a conversation or form.

An IRS bank levy attaches only to funds in your account at the time your bank processes the levy.

Any future deposits that you make are not subject to the levy once it has been processed. For example, if you have $200 in your account at the time of levy, your bank will deduct that. If you make a $1,000 deposit the next day, that money is yours and is not subject to the levy – you keep it. An IRS bank levy is not continuous on your account.

After the levy is processed, you can continue to use the account and pay your bills. The IRS would have to send a brand new levy to get money out of your account again. This is possible, but my experience is another bank levy is unlikely to happen in rapid fire succession, but caution should be exercised. Your account is clearly active in the IRS collection queue.

An IRS bank levy requires your bank to hold the levied funds for 21 days before sending it to the IRS.

If you have been hit with a bank account levy, the IRS is trying to get your attention. The IRS resorts to enforcement when they cannot get account resolution voluntarily.

What to do next depends on many factors, including the age of your account, your need to recover the funds, and your ability (or inability) to repay the debt.

Wage Garnishments

How did the IRS find out where I work? Although there are other methods, usually because your employer sent them your W2 or 1099.

Unlike a bank levy, a wage garnishment is continuous. It is not removed until you have a release. This requires contacting the IRS and showing that the garnishment will cause an undue hardship. Sometimes it can be difficult and require financial information to get this done. Basically, the IRS allows you to keep what is considered "poverty level" income for you and your dependents.

Face to face with IRS agents

If you find yourself in an IRS pickle, there are three IRS employees you are most likely to come face to face with. Those are Revenue Officers, Revenue Agents, and Special Agents. Here is what to expect from each:

An IRS Revenue Officer is collection enforcement

Often, the first contact you will receive from a Revenue Officer is an unannounced visit to your home or office. Revenue Officer's collect taxes and pursue nonfilers. Revenue Officers work in your town. They want financial information to determine the best way to collect the taxes (or not collect them if it would create a hardship). Revenue Officers carry badges and can take your wages, bank accounts and other personal and real property if there is a lack of cooperation. The goal is to close the case while collecting whatever they deem you can pay.

An IRS Revenue Agent audits tax returns for the IRS

Like Revenue Officers, Revenue Agents may want to meet you at your business or ask that you come to their office. You will be notified of the audit by mail – no unannounced surprise visits. Common audit triggers include excessive Schedule C businesses and expense deductions (claiming $10,000 in charitable contributions on $40,000 income). Audits are about finding money that you owe but did not correctly report, but it can turn criminal if the Revenue Agent finds significant unreported income or fraudulent deductions.

IRS Special Agents are criminal investigators

In addition to criminal referrals from Revenue Agents (auditors), Special Agents can receive cases from Revenue Officers (collectors). Examples of Revenue Officer collection referrals include lying about your finances and assets, or intentionally failing to pay employment taxes. Special Agent priorities also include non-filers, concealing income off-shore, and tax returns prepared to obtain fraudulent refunds. If you are under criminal investigation you most likely will be the last to know, with Special Agents making an unannounced visit. They often know the answers to their questions. State you wish to contact an attorney, and respectfully decline to answer.

Thinking of calling IRS Automated Collection System

You consider doing what the IRS asked – picking up the phone and calling the IRS Automated Collection System ("ACS"). The day of reckoning cannot be put off any longer.

But the call to the IRS is not always that simple.

First, know that when you call, the IRS agent on the other end is trained to immediately ask you a script of questions.

Here are the first questions you should expect to be asked when you call the IRS Automated Collection System"

- Your current address.
- Your telephone number.
- Where you bank.
- The name of your employer.

Before you even get started in conversation the IRS account representative is trained to extract financial information from you, including where you bank and work.

The purpose is to update the IRS's database with bank levy and wage garnishment sources.

You are five minutes into the call, have disclosed valuable information, and received nothing back. And the IRS is not done with its requests for information.

Expect the IRS account representative to next request that you provide a financial statement, which will include the amount of your income, a list of your monthly living expenses, the car you drive and what it's worth, and the value of your house.

The IRS will give you a deadline to call back and fax the completed information, or to send it in by mail. In my experience, expect the IRS to allow you between two and four weeks to get the financial statement completed, although the time allotted varies and is often dependent on the personality of the IRS account representative.

Here's the catch you now could be in: If you do not provide the financial statement by the deadline, the IRS may want to levy your bank account or wages, using the very information you provided them on your first call.

And know that when you call back with the financial statement, you will not speak with the same person who handled your earlier call. In fact, you will never speak to the same person twice when you call the IRS-Automated Collection System. That very nice and helpful person you spoke with during the first call could be replaced by a more aggressive agent.

The IRS may also ask for some supporting documents to verify the information on the financial statements, such as your last three months' bank statements and statements verifying your auto and home loans.

Dealing with the IRS Automated Collection Service

The IRS has two main sources of carrying out its work in collecting taxes: Local Revenue Officers and the Automated Collection Service ("ACS").

When you get that call or letter from IRS collections, it's important to know who you are dealing with – and what to expect.

ACS – is a series of IRS call centers staffed by IRS collection employees. You will never see or meet an ACS employee face-to-face; all of their work is conducted by telephone. And the vast majority of telephone work conducted by ACS is responding to inbound calls, not making outbound calls. The inbound calls are the result of collection notices the IRS sends out.

Remember, when you call ACS, there is not one person assigned to your case. The person you speak with today – and let's say that person gives a one-week deadline to call back with financial information – will be different than the person you speak with the next week. This can result in inconsistencies in the way you are treated and your case is handled.

IRS Automated Collection Service does not seize your house, your personal property, or your business assets or equipment. Remember, ACS is made up of computer-generated levy notices; seizures of real and personal property require high-level approval, and often require filing of a lawsuit in court.

ACS can, however, levy your bank account or your wages. Their focus is on liquid-type assets that are easy to find and can be taken by a computer notice. ACS usually finds your bank account or wages by relying on information it already has stored in its computer database. This information comes from your bank or your employer when they report it to the IRS every year in the form of a W2 or 1099. Automated Collection Service knows where you bank, and where you work – enabling it to levy you

What you should know about the IRS fresh start programs

The IRS Fresh Start program makes it easier to settle your back tax liability for less money than you owe. You may be able to save thousands and thousands of dollars and finally put an end to your IRS tax nightmare.

The Fresh Start Program is complex and has many components. It changed more than just the Offer an Compromise program. It provides for a stream-line installment agreement, allows you to waive penalities in certain cases, and extends the time you have to repay your tax debt. If you want to find out about the program we urge you to call us today. Time is not on your side.

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