

Stand Up to the IRS

12th Edition

Tax Attorney Frederick W. Daily

Table of Contents

Preface	i
Chapter 1 – Inside the IRS: What You Need to Know About IRS Operations	1
Learning Objectives	1
Introduction.....	1
IRS Inefficiency.....	3
Communicating With the IRS	4
Getting Your Tax File from the IRS.....	4
Obtaining Income Information	5
Getting Your Tax Data from the IRS.....	6
Rules of the Game—Tax Laws	6
Interpreting the Tax Code	7
Self-Assessment of Income Taxes	7
Winning the IRS Game	7
Review Questions.....	9
Review Answers	10
Chapter 2 – Filing Tax Returns	13
Learning Objectives	13
Introduction.....	13
How Long Must You Worry About Not Filing a Tax Return?.....	13
Consequences of Not Filing	14
IRS Hunting for Nonfilers	14
IRS Notifying Nonfilers	14
When the IRS Prepares Your Tax Return for You.....	15
Nonfiling May Be a Crime.....	15
It's Better to File Before the IRS Contacts You	16
Suggestions for Completing Late-Filed Tax Returns.....	16
Voluntary Filing to Minimize the Chance of a Criminal Investigation.....	18
What Will Happen When You File Late	18
Civil Penalties and Interest Added to Your Tax Bill	19
Criminal Charges May Be Brought	19
Refunds May Be Denied	19
Requesting an Extension to File.....	20
Filing a Return When You Can't Pay What You Owe.....	21
Filing a Tax Return When You Live Out of the United States.....	21
Reducing the Chance of an Audit When Filing	21
Amending Tax Returns	22
How to Amend a Tax Return	22
Audit Alert for Amended Tax Returns	23
A Word About “Aggressive” Tax Filing.....	23
Review Questions.....	25
Review Answers	26
Chapter 3 – Winning Your Audit	29
Learning Objectives	29
Introduction.....	29
How Long Do I Have to Worry About an Audit?.....	29
What to Expect at an Audit.....	31
Do I Have to Learn Tax Law to Win My Audit?	31
Audit Selection—Why Me, O Lord?	31
Computers and Classifiers—What's the Difference?.....	31
Unreported Income DIF Programs.....	32
Local IRS Makes Final Decision.....	32

Table of Contents

The IRS Looks at Significant Items.....	33
Living Beyond Your Means	33
Market Segment Specialization Program.....	35
Other Reasons for Audits.....	35
When the IRS Increases Your Tax Bill without an Audit.....	37
Dealing with IRS Automated Adjustment Notices.....	38
Be Patient If You Don't Hear From the IRS Immediately.....	39
Types of IRS Audits	45
Correspondence Audits—Please, Mr. Postman.....	45
Office Audits—Heigh-Ho, Heigh-Ho, It's Off to the IRS We Go	45
Field Audits—Look Out, Here Comes the IRS	50
How a Field Auditor Approaches an Examination.....	53
Preparing for an Audit.....	56
Your Audit Goals.....	57
What Not to Bring to an Audit.....	58
Who Should Attend the Audit?	58
How to Act at an Audit	58
Mum's the Word.....	58
Don't Offer Any Favors to the Auditor.....	59
Try to Get Along With the Auditor	59
When a New Auditor Appears on the Scene.....	60
Standing Up to the Auditor	61
Negotiating With an Auditor.....	64
Ending the Audit	65
IRS Pressure on an Auditor to Finish—Extending the Audit Time Limit.....	65
Finishing Audits	66
Receiving the Examination Report	66
Understanding the Examination Report.....	66
Your Options After Getting the Examination Report.....	67
Serious Audit Problems	74
The Auditor Suspects You of Fraud.....	74
You're Billed for an Audit You Didn't Know About	74
Jeopardy Assessments of Assets.....	75
Review Questions.....	82
Review Answers	84
Chapter 4 – Appealing Your Audit Within the IRS.....	87
Learning Objectives	87
Introduction.....	87
Pros and Cons of Appealing an Audit.....	87
How to Appeal an Audit	88
Time Limit for an Appeal	88
How to Get Your Audit to the Appeals Office	88
IRS Form for Appeals Under \$25,000 (Small Case).....	88
Protest Letter for Appeals Over \$25,000 (Large Case)	89
Requesting the Auditor's File	91
How the Appeals Office Works.....	92
Preparing for an Appeals Hearing	93
Organizing and Presenting Documents	93
Filling in the Gaps	94
Focusing on Challenged Items.....	94
Meeting the Appeals Officer.....	95
Presenting a Case to an Appeals Officer.....	95
Negotiating a Settlement.....	96
Should You Hire a Tax Professional for Your Appeal?.....	99
If You Don't Settle on Appeal.....	99

Table of Contents

Review Questions.....	101
Review Answers	102
Chapter 5 – Going to Tax Court: No Lawyer Necessary	103
Learning Objectives	103
Introduction.....	103
Tax Court Facts	104
Small Tax Cases—People’s Court	104
The Small-Tax Case Petition and Related Forms	105
Completing the Tax Court Forms.....	105
Filing the Tax Court Forms.....	108
Meeting With IRS Appeals Officers and Attorneys Before the Trial	108
Settlement Before Trial Is Likely.....	109
Notices From the Court Before Your Trial.....	109
Preparing Your Case for Trial.....	110
Awaiting the Judge’s Decision in a Small Case	114
The Tax Bill.....	114
Regular Tax Court Cases—Over \$50,000	114
Bench Decisions	115
Not Contesting Amounts over \$50,000	115
Other Federal Courts—Paying First Is Required.....	115
Bankruptcy Court.....	116
Review Questions.....	118
Review Answers	119
Chapter 6 – When You Owe the IRS: Keeping the Tax Collector at Bay	121
Learning Objectives	121
Introduction.....	121
When You Can’t Pay With Your Tax Return.....	123
Getting Time to Pay After the Tax Bill Comes.....	123
IRS Tax Billing Process	124
Delaying the Computerized Notice Cycle.....	124
Automatic Refund, Asset, and Wage Seizures	124
IRS Automated Collection System	125
Delaying the ACS Collector.....	125
Getting an Installment Agreement (IA) From the IRS	126
Requesting That Your File Be Sent to the Local Office	128
Revenue Officers—Frontline Collectors of the IRS	128
The First Visit.....	128
The Collection Interview—Meeting the Revenue Officer	129
Filling in IRS Collection Forms	130
Signing IRS Collection Forms—Proceed With Caution	135
Protecting Yourself after Making Financial Disclosures to the IRS	136
What the Collector Does Next	136
Installment Payment Plan: Individuals	137
Installment Agreement Set-Up Fee	138
Offers in Compromise (OICs).....	140
Grounds for Making an OIC	140
Your Minimum Offer Amount	149
Special Circumstances: Effective Tax Administration (ETA) Exception	150
If Your OIC Is Rejected	152
Using the Bankruptcy Code to Stop the IRS.....	153
Types of Bankruptcy	153
The Automatic Stay.....	153
Downsides of Bankruptcy	154
Taxes and Chapter 7 Bankruptcy	154
Taxes and Chapter 13 Bankruptcy	155

Table of Contents

Taxes and Chapter 11 Bankruptcy	156
Taxes and Chapter 12 Bankruptcy	156
Protecting Your Assets From the IRS	157
Suspending Collection of Your Tax Bill	158
Review Questions	159
Review Answers	161
Chapter 7 – IRS Enforced Collection: Liens and Levies	163
Learning Objectives	163
Introduction	163
Federal Tax Liens	163
Notice of Federal Tax Lien	163
Effect of a Recorded Notice of Federal Tax Lien	164
Neutralizing a Recorded Federal Tax Lien	164
If the IRS Records a Tax Lien	165
When the IRS Files a Tax Lien in Error	166
Getting a Tax Lien Withdrawn	167
Tax Levies = Seizure of Assets	167
Significance of a Tax Levy	167
Dealing With the IRS Levy Process	168
Assets the IRS Can't or Won't Seize	168
Exempt Assets	168
Assets of Last Resort That the IRS Can Seize	169
You and Your Spouse's Income	169
Jointly Owned Assets	170
Avoiding a Levy	170
Transfer Your Assets	171
Convince the IRS That a Levy Would Be Uneconomical	171
Show That the Levy Would Prevent You from Working	172
Keep Mum about Your Assets	172
Keep Assets Out of Sight	172
Sell Your Assets	172
Move Financial Accounts	172
Rent, Don't Own	172
Deposit Money Into Retirement Accounts	172
File for Bankruptcy	173
Use Safe Deposit Boxes	173
Getting a Tax Levy Released	173
IRS Sales of Levied Assets	174
IRS Sales of Personal Property	174
IRS Sales of Homes and Other Real Estate	175
Levies of Business Assets	177
Levies of Joint Tax Refunds: Injured Spouse Claims	177
Suing the IRS for a Wrongful Levy	177
Review Questions	179
Review Answers	180
Chapter 8 – The Taxpayer Advocate: A Friend at the IRS	181
Learning Objectives	181
Introduction	181
Who Qualifies for Help From a Taxpayer Advocate?	181
Problems the Taxpayer Advocate Will Pursue	181
Problems the Taxpayer Advocate Won't Pursue	182
Contacting the Taxpayer Advocate Service	183
Emergency Help: Taxpayer Assistance Orders	184
What Constitutes a Significant Hardship to the IRS?	184
Getting Hardship Relief—Calling the IRS's 911 Line	185

Table of Contents

Review Questions.....	187
Review Answers	188
Chapter 9 – Family, Friends, Heirs, and the IRS.....	189
Learning Objectives	189
Introduction.....	189
It's a Family Affair	189
Filing Tax Returns—Joint or Separate?.....	189
Divorce and the IRS.....	191
Parenting and the IRS.....	192
Owning Property Jointly	193
Death and Taxes	194
Filing a Federal Estate Tax Return.....	194
IRS Audits of Estate Tax Returns.....	195
Joint Ownership and Death	197
Review Questions.....	198
Review Answers	199
Chapter 10 – Fraud and Tax Crimes: Do You Really Have to Worry?	201
Learning Objectives	201
Introduction.....	201
How People Commit Tax Fraud	201
If You Are Caught Cheating	201
The IRS Suspects You of Fraud.....	201
Options When the IRS Finds Fraud.....	204
IRS Criminal Investigations	205
How Special Agents Conduct Investigations.....	205
IRS Considerations in Deciding Whether or Not to Recommend Prosecution	207
Crimes with Which You Can Be Charged	207
If You Are Prosecuted.....	208
Should You Plead Not Guilty?	208
What the Government Must Prove	208
Possible Defenses	209
If You Are Convicted	209
Review Questions.....	211
Review Answers	212
Chapter 11 – Small Business/Self-Employed: When IRS Trouble Comes	213
Learning Objectives	213
Introduction.....	213
Self-Employed—You're a Prime Audit Target.....	213
Employees or Independent Contractors?	213
How to Classify a Worker.....	214
People Who Are Automatically Employees by Law.....	215
Exempt Employees and Small Business Owners.....	215
How Independent Contractor Rules Are Applied.....	215
How Business Owners Can Protect Themselves.....	216
Payroll Taxes—IRS Dynamite.....	216
The Dreaded Trust Fund Recovery Penalty.....	217
How the IRS Determines the Responsible People	218
Appealing a Trust Fund Recovery Penalty.....	219
If You Lose Your Trust Fund Recovery Penalty Appeal	221
Cash Transactions over \$10,000.....	222
Review Questions.....	224
Review Answers	225

Table of Contents

Chapter 12 – Penalties and Interest.....	227
Learning Objectives	227
Introduction.....	227
Penalties Added to Tax Bills	227
Accuracy Penalties	227
Fraud Penalties.....	228
Failure to Withhold, Deposit, or Pay Taxes For Employees.....	228
Failure to File Information Returns	228
Failure to Pay Penalties	228
Late-Filing Penalties—Late Filing and Late Paying.....	228
Combined Penalties.....	228
Interest on Tax Bills	228
Understanding Penalty and Interest Notices.....	229
Reducing or Eliminating Penalties and Interest	229
Reasonable Cause for a Penalty Abatement	229
How to Request a Penalty Abatement.....	230
If Your Abatement Request Is Rejected.....	231
Abating Interest.....	233
How to Request an Interest Abatement.....	233
Designating Late Tax Payments	233
Advantages of Designating Your Payments.....	234
How to Designate a Payment.....	234
Review Questions.....	235
Review Answers	236
Chapter 13 – Help Beyond the Book: Tax Professionals and Tax Information.....	237
Learning Objectives	237
Introduction.....	237
Finding and Using a Tax Professional	237
How Tax Professionals Can Help.....	238
Types of Tax Professionals	238
Choosing the Right Tax Pro	239
What to Look for in a Tax Professional	239
Tax Professionals' Fees.....	240
Tax Pros for Serious Audits	240
The Right Type of Tax Professional	241
Tax Professional Analysis after an Audit.....	241
Hiring a Tax Return Preparer	241
Researching Tax Questions	242
Free IRS Information.....	242
Private Tax Guides	243
Other Research Materials—Using the Library or Internet.....	243
Review Questions.....	245
Review Answers	246
Chapter 14 – When You Owe State Income Taxes	247
Learning Objectives	247
Introduction.....	247
The IRS and State Taxing Authorities	247
Does Your State Have a Taxpayer Bill of Rights?.....	247
State Time Limits to Assess and Collect Income Taxes.....	248
State Tax Collection Departments.....	248
State Tax Bills.....	248
Getting a State Payment Plan	248
Enforced Collection—Seizing Assets.....	249
Bankruptcy.....	249
Compromising a State Tax Assessment.....	249

Table of Contents

Suspending Collection	250
When All Else Fails, Try Your Political Connections	250
Review Questions.....	251
Review Answers	252
Chapter 15 – The Taxpayer Bill of Rights.....	253
Learning Objectives	253
Introduction.....	253
Taxpayer Bill of Rights I	253
The Good	253
The So-So	254
The Window Dressing.....	254
Taxpayer Bill of Rights II	254
The Good	254
The So-So	255
The Window Dressing.....	255
Taxpayer Bill of Rights III	255
The Good	255
The So-So	257
The Window Dressing.....	257
Review Questions.....	261
Review Answers	262
Chapter 16 – The 25 Most Frequently Asked Questions.....	263
Review Questions.....	268
Review Answers	269
Glossary of Tax Terms	271
Index	279