

How to Get Tax Amnesty

Daniel J. Pilla

Table of Contents

Chapter 1 – Promises of Hope	1
Learning Objectives	1
Introduction.....	1
The IRS – A Kinder and Gentler Agency?	2
Economic Realities Force IRS to Reexamine its Policies	3
Political Realities Force IRS into a More Realistic Support	4
The Education Factor.....	5
What “Tax Amnesty” Really Is.....	6
Review Questions.....	7
Review Answers	8
Chapter 2 – How Do I Owe Thee? Let Me Count the Ways!	9
Learning Objectives	9
Introduction.....	9
Failure to File a Tax Return.....	10
Filing a Tax Return without Paying the Tax	12
Tax Debt Created by Tax Audits	13
General Tax Audits	13
IRS Errors.....	13
Computer Notices	13
Information Returns	14
Divorce and Spousal Abandonment	14
Cancellation of Debt Income Due to the American Debt Crisis.....	15
Business Debt	16
Tax Protesters	17
Conclusion.....	19
Review Questions.....	20
Review Answers	21
Chapter 3 – Am I Going to Jail?	23
Learning Objectives	23
Introduction.....	23
What are the <i>Real</i> Chances of Going to Jail?	24
The Signposts of a Criminal Investigation.....	25
Tax Crimes and the Statute of Limitations	27
What Determines Who Will and Will not be Prosecuted?	28
The Element of Willfulness.....	29
How to Prevent a Criminal Case	30
The Voluntary Disclosure	30
Cooperating with the Investigation	31
Conclusion.....	32
Review Questions.....	33
Review Answers	34
Chapter 4 – The Tax Man Cometh	35
Learning Objectives	35
Introduction.....	35
The IRS’s Collection Powers.....	35
The Summons	35
The Tax Lien.....	36
Coping with Liens, Levies and Seizures	37
Wage and Bank Levies	37
Property Seizures	37
Property Exempt from Levy and Seizure	38
The Exemption for Business Tools and Equipment.....	39

Table of Contents

The Exemption for a “Principal Residence”	39
What to Expect from Enforced Tax Collection.....	40
When You File but Do Not Pay.....	40
When You Did Not File	53
Collecting Employment Taxes.....	56
Conclusion.....	57
Review Questions.....	58
Review Answers	60
Chapter 5 – Damage Control: How to Stabilize Collection	63
Learning Objectives	63
Introduction.....	63
How to Avoid Automated Collection Action.....	63
The Collection Due Process Appeal	63
Issues that May be Raised in a CDP Appeal	64
Issues that May Not be Raised in a CDP Appeal.....	66
The CDP Hearing	67
The Final Determination.....	67
Judicial Review of CDP Decisions.....	68
An Important Caveat Regarding CDP Appeals	68
Limitations on Certain Employment Tax CDP Appeals	68
Negotiating with the IRS When You Have No CDP Rights.....	70
An Important Caveat Regarding Installment Agreement Applications and Appeals	71
Should I Call Automated Collection?	71
Negotiating with a Revenue Officer	72
How to Win an Installment Agreement.....	74
The Guaranteed Right to an Installment Agreement	74
Streamlined Agreements for Individuals	74
Streamlined Agreements for Businesses.....	75
How to Establish the Installment Payment Amount.....	75
Determine Your Monthly Income	75
Determine Your Monthly Living Expenses	76
Facing Down NS, LS and TS Allowances.....	77
Proving Your Actual Expenses.....	80
Forcing the Issue on an Upward Deviation	80
Formalizing the Installment Agreement	81
Recognize the RO’s Job	81
How to Appeal an Installment Agreement Rejection or Termination.....	83
Life Under an Installment Agreement	85
What to Expect while the Agreement is in Effect.....	85
When the IRS Alters or Modifies Your Agreement	86
Renegotiating Your Agreement	86
The Tax Lien.....	87
The Tax Delinquency Investigation (TDI).....	87
The Collection Summons Demanding Records	89
Employment Taxes and the Installment Agreement.....	90
First, Stop the Bleeding.....	90
Special Considerations for Employment Taxes.....	91
Designating Payments.....	91
How to Determine the Employment Tax Installment Payment.....	92
Conclusion.....	93
Review Questions.....	94
Review Answers	96
Chapter 6 – Coping with Liens, Levies, and Seizures.....	99
Learning Objectives	99
Introduction.....	99

Table of Contents

The Federal Tax Lien.....	99
General Lien Filing Guidelines	99
The Lien Withdrawal	101
The Lien Subordination.....	103
The Bond.....	107
Property Double the Amount of the Liability.....	108
The “Quiet Title” Action	108
Expiration of the Lien	109
Failure to Release a Lien	109
The Lien Appeal.....	110
Proving Your Case.....	110
Releasing Wage and Bank Levies.....	111
Installment Agreement in Effect.....	112
Economic Hardship.....	112
Facilitate Collection of the Liability	113
The Fair Market Value of Property.....	114
Levy Release and Non-filers	115
Return of Seized Property.....	116
A Written Request for Release of Levy or Return of Property	116
Using the Taxpayer Advocate	116
Coping with Property Seizures	117
Property Seizure Guidelines.....	117
Your Principal Residence.....	118
The Minimum Bid Worksheet	118
The Lawsuit for Injunction	118
The Separate Interest	119
The Premature Assessment.....	119
Levy on an IRA or 401(k)	119
The Injured Spouse	121
The Innocent Spouse.....	122
Conclusion.....	126
Review Questions.....	127
Review Answers	129
Chapter 7 – Dial 911 – Emergency Measures to Stop Collection	133
Learning Objectives	133
Introduction.....	133
The Equivalent Hearing.....	134
How to Carry out an Equivalent Hearing Appeal	135
The CAP Appeal.....	135
How to Carry out a CAP Appeal.....	135
The CAP Appeal Hearing.....	136
The Office of Taxpayer Advocate Service.....	136
Releasing Wage Levies	139
Property Exempt from Levy.....	140
Conclusion.....	140
Review Questions.....	141
Review Answers	142
Chapter 8 – How to Step Forward: The Non-Filer Program	143
Learning Objectives	143
Introduction.....	143
Filing Delinquent Tax Returns—A Caveat	144
Who is Required to File.....	144
How to File Delinquent Returns.....	144
How Far Back Should I go to Cure Delinquent Filings?.....	145
Dealing with IRS-Filed Returns	146

Table of Contents

Get Off the Tax Debt Treadmill.....	147
Conclusion.....	149
Review Questions.....	150
Review Answers.....	151
Chapter 9 – Forgiveness of Penalties.....	153
Learning Objectives.....	153
Introduction.....	153
The IRS’s Penalty Policy.....	153
How to Cancel Penalties.....	155
The “First-Time” Failure.....	155
How the FTA Waiver Works.....	156
Reasonable Cause or FTA Waiver?.....	157
The “Frivolous Submission” Penalty.....	157
Appealing a Frivolous Submissions Penalty.....	158
CDP Request Itself Subject to the Frivolous Penalty.....	159
Strategies to Eliminate a Frivolous Submission Penalty.....	159
Conclusion.....	160
Review Questions.....	163
Review Answers.....	164
Chapter 10 – The Collection Statute of Limitations.....	165
Learning Objectives.....	165
Introduction.....	165
How the Collection Statute of Limitations Operates.....	165
How to Compute the Collection Statute Expiration Date.....	165
Extending the Collection Statute.....	166
The Voluntary Extension.....	166
Levies Extending Beyond the CSED.....	167
The Installment Agreement.....	168
The Offer in Compromise.....	170
Citizen Outside the United States.....	171
Judicial Actions.....	171
A Wrongful Levy.....	172
Application for Taxpayer Assistance Order.....	172
The Collection Due Process Appeal.....	172
A Request for Innocent Spouse Relief.....	173
Canceling Expired Assessments.....	173
Conclusion.....	173
Review Questions.....	174
Review Answers.....	175
Chapter 11 – Tax Amnesty Programs Number 1 and 2: The Life Jackets.....	177
Learning Objectives.....	177
Introduction.....	177
Program No. 1: Uncollectible Status – Who Can Benefit?.....	177
How to Achieve Uncollectible Status.....	177
Uncollectible Status When You Have Equity in Assets.....	179
Uncollectible Status and Unfiled Returns.....	179
Living with Uncollectible Status.....	180
Program No. 2 – The Partial Pay Installment Agreement.....	180
When Will a PPIA be Considered?.....	180
The Decision to Grant a PPIA.....	181
Beware of a Waiver Request.....	182
The Two-year Review Process.....	182
Conclusion.....	183
Review Questions.....	184
Review Answers.....	185

Table of Contents

Chapter 12 – Tax Amnesty Program Number 3: The Offer in Compromise	187
Learning Objectives	187
Introduction.....	187
Who Can Benefit from an Offer in Compromise?.....	188
Special Conditions of an Offer in Compromise	189
How to Argue for an Offer in Compromise	189
Doubt as to Liability	189
Doubt as to Collectability.....	190
The OIC Based on Effective Tax Administration (ETA).....	201
The “Special Circumstances” Offer in Compromise	205
Other Factors that Make a Successful OIC.....	206
Your Health and Education	206
The Bankruptcy Factor.....	206
The “Public Policy” Factor	208
How to File an Offer in Compromise.....	209
Payments Submitted with the Offer	210
A Processable Offer in Compromise	210
Where to Send Your Offer.....	210
The OIC Investigation	211
What to do if the Answer is “No”	213
All Collection Must Stop	215
An OIC and Your Tax Refund	215
Conclusion.....	215
Review Questions.....	216
Review Answers	218
Chapter 13 – Tax Amnesty Program Number 4: Wage-Earners Repayment Plan	223
Learning Objectives	223
Introduction.....	223
Who Can Benefit from the Wage-earner’s Repayment Plan?.....	224
Common Concerns About Filing Bankruptcy	224
“Bankruptcy is a Way of Cheating”	224
“Filing Bankruptcy Will Ruin My Credit.”	225
“I will Lose Everything in Bankruptcy.”.....	226
“But I Thought Taxes Were Not Discharged in Bankruptcy!”	226
The Rules for Discharging Taxes in Bankruptcy	228
Rule 4—The Return-filed Rule	229
Tolling Applicable to the Time Periods in Rules 1 through 3	231
The Substitute for Return.....	232
The Notice of Deficiency (NOD) and Tax Court	232
The NOD but no Tax Court Case	233
The IRS Fails to Issue an NOD	234
The Requirement for Credit Counseling	234
Delinquent and Current Tax Returns Must Be Filed.....	235
How a Chapter 13 Operates.....	235
Figuring Disposable Income.....	236
The Chapter 13 Discharge	238
Good Faith Required.....	238
Special Provisions of the Bankruptcy Code	238
The Automatic Stay—Return of Wages.....	238
Redetermining a Tax Liability	239
Bankruptcy and the Federal Tax Lien.....	239
Tax Liens and Secured Debt.....	239
The End of the Tax Lien.....	240
Employment Taxes and Chapter 13	240
The Final Analysis	241
Conclusion.....	241

Table of Contents

Review Questions	242
Review Answers	243
Chapter 14 – Tax Amnesty Program Number 5: The Fresh Start	245
Learning Objectives	245
Introduction.....	245
Who Can Benefit From the Fresh Start Program?	245
How the “Fresh Start” Program Operates	246
The Chapter 7 “Means Test”	247
The Means Test Applies Only to Debtors Owing “Primarily Consumer Debts”.....	248
A Mandatory Chapter 13 Does Not Apply to Low-income Citizens	250
A Mandatory Chapter 13 Does Not Apply if You Have Insufficient Disposable Income	250
Four Steps to Figuring Whether Chapter 7 is an Option.....	250
The Rules for Discharging Taxes in Chapter 7	251
Special Provisions Relating to Chapter 7.....	252
The Federal Tax Lien.....	252
What Happens if My Equity is Substantial?	252
The Final Analysis	253
Planning for Bankruptcy.....	253
Conclusion.....	255
Review Questions.....	256
Review Answers	257
Abbreviations	259
Glossary.....	261
Index	271