

# **Stand Up to the IRS**

---

Edition 14.5

Tax Attorney Frederick W. Daily  
Stephen Fishman, J.D.

# Table of Contents

---

<b>Chapter 1 – Inside the IRS: What You Need to Know About IRS Operations .....</b>	<b>1</b>
Learning Objectives .....	1
Introduction.....	1
IRS Inefficiency.....	3
Communicating with the IRS .....	4
Getting Your Tax Data from the IRS.....	4
Rules of the Game—Tax Laws.....	6
Interpreting the Tax Code .....	6
Self-Assessment of Income Taxes .....	7
Winning the IRS Game .....	7
Review Questions.....	9
Review Answers .....	10
<b>Chapter 2 – Filing Tax Returns .....</b>	<b>13</b>
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 .....	16
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.....	19
Civil Penalties and Interest Added to Your Tax Bill .....	19
Criminal Charges May Be Brought .....	20
Refunds May Be Denied .....	20
Requesting an Extension to File.....	21
Filing a Return When You Can't Pay What You Owe.....	21
Filing a Tax Return When You Live Out of the United States.....	22
Reducing the Chance of an Audit When Filing.....	22
Amending Tax Returns .....	23
How to Amend a Tax Return .....	23
Audit Alert for Amended Tax Returns .....	23
A Word About "Aggressive" Tax Filing.....	24
Review Questions.....	26
Review Answers .....	27
<b>Chapter 3 – Winning Your Audit .....</b>	<b>29</b>
Learning Objectives .....	29
Introduction.....	29
How Long Do I Have to Worry About an Audit?.....	29
What to Expect at an Audit.....	30
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
The IRS Looks at Significant Items.....	32
Living Beyond Your Means .....	33
Market Segment Specialization Program.....	35
Other Reasons for Audits.....	35

## Table of Contents

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.....	57
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 .....	64
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.....	66
Serious Audit Problems.....	73
The Auditor Suspects You of Fraud.....	74
You're Billed for an Audit You Didn't Know About.....	74
Jeopardy Assessments of Assets.....	74
Review Questions.....	81
Review Answers .....	83
<b>Chapter 4 – Appealing Your Audit Within the IRS.....</b>	<b>85</b>
Learning Objectives .....	85
Introduction.....	85
Pros and Cons of Appealing an Audit .....	85
How to Appeal an Audit.....	86
Time Limit for an Appeal .....	86
How to Get Your Audit to the Appeals Office .....	86
IRS Form for Appeals Under \$25,000 (Small Case) .....	87
Protest Letter for Appeals Over \$25,000 (Large Case) .....	87
Requesting the Auditor's File .....	89
How the Independent Office of Appeals Works.....	90
Preparing for an Appeals Hearing .....	91
Organizing and Presenting Documents .....	91
Filling in the Gaps .....	92
Focusing on Challenged Items .....	92
Dealing with the Appeals Officer .....	93
Presenting a Case to an Appeals Officer.....	93
Negotiating a Settlement.....	94
Should You Hire a Tax Professional for Your Appeal? .....	97
If You Don't Settle on Appeal .....	97
Review Questions.....	98
Review Answers .....	99
<b>Chapter 5 – Going to Tax Court: No Lawyer Necessary .....</b>	<b>101</b>
Learning Objectives .....	101

## Table of Contents

Introduction.....	101
Tax Court Facts .....	102
Small Tax Cases—People's Court .....	102
The Small Tax Case Petition and Related Forms .....	103
Completing the Tax Court Forms .....	103
Filing the Tax Court Forms.....	103
Meeting With IRS Appeals Officers and Attorneys Before the Trial .....	106
Settlement Before Trial Is Likely.....	107
Notices From the Court Before Your Trial.....	107
Preparing Your Case for Trial.....	107
Awaiting the Judge's Decision in a Small Case .....	112
The Tax Bill .....	112
Regular Tax Court Cases—Over \$50,000 .....	112
Bench Decisions .....	112
Not Contesting Amounts over \$50,000 .....	112
Other Federal Courts—Paying First Is Required.....	113
Bankruptcy Court.....	114
Review Questions.....	115
Review Answers .....	116
<b>Chapter 6 – When You Owe the IRS: Keeping the Tax Collector at Bay .....</b>	<b>117</b>
Learning Objectives .....	117
Introduction.....	117
When You Can't Pay with Your Tax Return .....	119
Getting Time to Pay After the Tax Bill Comes.....	119
IRS Tax Billing Process.....	120
Delaying the Computerized Notice Cycle .....	120
Automatic Refund, Asset, and Wage Seizures .....	120
IRS Automated Collection System.....	121
Delaying the ACS Collector.....	121
Getting an Installment Agreement (IA) From the IRS.....	122
Requesting That Your File Be Sent to the Local Office .....	124
Revenue Officers—Frontline Collectors of the IRS .....	125
The First Visit.....	125
The Collection Interview—Meeting the Revenue Officer.....	125
Filling in IRS Collection Forms .....	127
Signing IRS Collection Forms—Proceed With Caution .....	132
Protecting Yourself after Making Financial Disclosures to the IRS .....	133
What the Collector Does Next.....	133
Installment Payment Plan: Individuals .....	133
Installment Agreement Set-Up Fee .....	136
Offers in Compromise (OICs).....	138
Grounds for Making an OIC .....	138
Offer in Compromise Forms .....	139
Your Minimum Offer Amount.....	139
OIC Payment Options .....	148
Special Circumstances: Effective Tax Administration (ETA) Exception .....	149
What Happens After You Send in Your OIC Application .....	151
If Your OIC Is Rejected .....	151
Using the Bankruptcy Code to Stop the IRS.....	152
Types of Bankruptcy .....	152
The Automatic Stay .....	152
Downsides of Bankruptcy.....	152
Taxes and Chapter 7 Bankruptcy .....	153
Taxes and Chapter 13 Bankruptcy .....	154
Taxes and Chapter 11 Bankruptcy .....	155
Taxes and Chapter 12 Bankruptcy .....	155

## Table of Contents

Protecting Your Assets from the IRS .....	155
Suspending Collection of Your Tax Bill.....	156
Collection of Tax Debts by Private Debt Collectors.....	157
Review Questions.....	160
Review Answers .....	161
<b>Chapter 7 – IRS Enforced Collection: Liens and Levies .....</b>	<b>163</b>
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 .....	164
Avoiding or Eliminating a Tax Lien .....	165
When the IRS Files a Tax Lien in Error .....	166
Getting a Tax Lien Released.....	166
Getting a Tax Lien Withdrawn .....	166
Tax Levies = Seizure of Assets .....	167
Significance of a Tax Levy .....	167
Dealing With the IRS Levy Process.....	167
Assets the IRS Can't or Won't Seize .....	168
Exempt Assets.....	168
Assets of Last Resort That the IRS Can Seize .....	168
You and Your Spouse's Income.....	169
Jointly Owned Assets.....	170
Avoiding a Levy .....	170
Transfer Your Assets .....	170
Convince the IRS That a Levy Would Be Uneconomical.....	171
Show That the Levy Would Prevent You from Working.....	171
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 .....	172
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 .....	176
Levies of Joint Tax Refunds: Injured Spouse Claims .....	177
Suing the IRS for a Wrongful Levy .....	177
Review Questions.....	178
Review Answers .....	179
<b>Chapter 8 – The Taxpayer Advocate: A Friend at the IRS.....</b>	<b>181</b>
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
<b>Chapter 9 – Family, Friends, Heirs, and the IRS.....</b>	<b>189</b>
Learning Objectives .....	189
Introduction.....	189
It's a Family Affair .....	189
Filing Tax Returns—Joint or Separate?.....	189
Divorce and the IRS.....	192
Parenting and the IRS.....	192
The IRS Can Take a Tax Refund for Certain Nontax Debts .....	193
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
<b>Chapter 10 – Fraud and Tax Crimes: Do You Really Have to Worry?.....</b>	<b>201</b>
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.....	203
IRS Criminal Investigations .....	205
How Special Agents Conduct Investigations.....	205
IRS Considerations in Deciding Whether or Not to Recommend Prosecution .....	207
Crimes You Can Be Charged With .....	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
<b>Chapter 11 – Small Business/Self-Employed: When IRS Trouble Comes .....</b>	<b>213</b>
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

<b>Chapter 12 – Penalties and Interest.....</b>	<b>227</b>
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 Reasonable Cause Penalty Abatement .....	230
If Your Abatement Request Is Rejected.....	230
First-Time Penalty Abatement.....	234
Abating Interest .....	235
How to Request an Interest Abatement.....	236
Designating Late Tax Payments.....	236
Advantages of Designating Your Payments.....	236
How to Designate a Payment.....	237
Review Questions.....	238
Review Answers .....	239
 <b>Chapter 13 – Help Beyond the Book: Tax Professionals and Tax Information.....</b>	 <b>241</b>
Learning Objectives .....	241
Introduction.....	241
Finding and Using a Tax Professional .....	241
How Tax Professionals Can Help.....	242
Types of Tax Professionals.....	242
Choosing the Right Tax Pro .....	243
What to Look for in a Tax Professional.....	243
Tax Professionals' Fees.....	244
Tax Pros for Serious Problems.....	244
The Right Type of Tax Professional .....	245
Tax Professional Analysis after an Audit .....	245
Hiring a Tax Return Preparer .....	245
Researching Tax Questions .....	246
Free IRS Information.....	246
Private Tax Guides .....	247
Other Research Materials—Using the Library or Internet.....	247
Review Questions.....	249
Review Answers .....	250
 <b>Chapter 14 – When You Owe State Income Taxes .....</b>	 <b>251</b>
Learning Objectives .....	251
Introduction.....	251
The IRS and State Taxing Authorities .....	251
Does Your State Have a Taxpayer Bill of Rights?.....	251
State Time Limits to Assess and Collect Income Taxes.....	252
State Tax Collection Departments.....	252
State Tax Bills.....	252
Getting a State Payment Plan .....	252
Enforced Collection—Seizing Assets .....	253
Bankruptcy .....	253

## Table of Contents

Compromising a State Tax Assessment.....	253
Suspending Collection .....	254
When All Else Fails, Try Your Political Connections .....	254
Review Questions.....	255
Review Answers .....	256
<b>Chapter 15 – The Taxpayer Bill of Rights.....</b>	<b>257</b>
Learning Objectives .....	257
Introduction.....	257
Taxpayer Bill of Rights I .....	257
The Good .....	257
The So-So .....	258
The Window Dressing.....	258
Taxpayer Bill of Rights II .....	258
The Good .....	258
The So-So .....	259
The Window Dressing.....	259
Taxpayer Bill of Rights III .....	259
The Good .....	259
The So-So .....	261
The Window Dressing.....	261
Review Questions.....	264
Review Answers .....	265
<b>Chapter 16 – The 25 Most Frequently Asked Questions.....</b>	<b>267</b>
Review Questions.....	272
Review Answers .....	273
<b>Glossary of Tax Terms .....</b>	<b>275</b>
<b>Index .....</b>	<b>283</b>