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# Helping Clients Work Out Payment Plans with the IRS

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Taxation, Probate & Trust Law Section

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June 9, 2020

# What will we discuss?

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- A couple of common client circumstances
- Fact Gathering
- Proposing installment plans and offers in compromise
- What happens after IRS approval or denial
- IRS "People First" initiative in response to COVID-19
- Final Thoughts



# A couple of common circumstances

- Client has not filed returns for years and also has not been contacted by IRS
- Client receives letter from the IRS claiming deficiency, lien, or levy

# Fact Gathering-No Tax Returns Filed

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Assuming that IRS has not assessed any tax or sent any letters



Direct client to have CPA prepare tax returns for the years in question (IRS will usually only look back 7 years if they have already not assessed but, technically, there is no statute of limitations when a return was not filed).



Refund may be due to taxpayer

But can only go back three years or two years from date of payment giving rise to refund  
However, may be able to shift refund from closed year to cover a different year's liability

# No Tax Returns Filed

After returns are prepared, they need to be filed with the IRS.

Assuming that the taxpayer cannot pay the tax owed with the returns, then, once the tax is assessed, propose an installment plan or make an offer in compromise (discussed further below).

# Fact Gathering-Client Received Letter from IRS

- The letter may be a deficiency notice, a notice of lien, or a notice of levy.
- Carefully review the letter as it may include important deadlines.
- In all circumstances, it can be helpful to schedule an appointment with the local IRS office to discuss the client's account and get transcripts - Taxpayer Assistant Centers are temporarily closed due to COVID-19.
- To schedule appointment, go to the IRS website and search for "Contact local office in Idaho." This does not work right now, but hopefully will sometime in the future.
- Transcripts can be requested online. Go to [irs.gov](https://www.irs.gov) and search "get transcript."



## Client Received Letter from IRS

If possible, make a request for a Collection Due Process Hearing (CDP).

Best results come from working with an IRS settlement officer with IRS Appeals.

If the deadline has passed to make a CDP request (clients often drag their feet getting notices to you), then in some cases you can request an Equivalent Hearing, which will also get you into IRS Appeals.



# Client Received Letter from IRS

- If you do not have the opportunity to work with IRS Appeals, then you can submit a proposal for an installment plan or an offer in compromise.
- Whether in Appeals or making the proposal generally, the forms are the same.





# Forms - Power of Attorney

- IRS Form 2848 - Power of Attorney
- Instructions for Form 2848
- Available at [IRS.gov](https://www.irs.gov)
- Let's briefly review the 2848

# Forms - Installment Plan (>\$50,000)

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- Installment Plan
  - Form 433-A (individual wage earner/self employed) and/or 433-B (business)
  - Form 9465 - Installment Agreement Request
  - Instructions for Form 9465
  - Let's briefly review Form 9465

# Forms - Installment Plan (\$50,000 or less)



Taxpayer can apply for an installment plan through the IRS website and does not need to provide a Form 433-A.



72 month term.



Go to [irs.gov/opa](https://irs.gov/opa) (which stands for online payment agreement)

# Forms-Offer in Compromise

- Form 656 Booklet - Offer in Compromise
  - Includes Forms 433-A and Forms 433-B
  - User friendly
- Basically, an acceptable offer will be:
  - Fair market value of assets (80% of real property FMV less mortgage) plus 12 x monthly discretionary income (as calculated using National Standards).
  - National Standards are available by going to [irs.gov](http://irs.gov) and searching for "collection financial standards."
- Let's briefly look at the collection financial standards and briefly review Form 656-B



# Denial

- If the proposed offer in compromise is denied, the taxpayer and agent under the 2848 (assuming you checked the appropriate 2848 box) will receive notice and an opportunity to protest.
- Very important to meet the deadlines.



# Approved

- To be approved and stay in compliance, taxpayer must have filed all current tax returns.
- If Offer is approved, typically the taxpayer must pay the offer amount within 5 months of approval (can also request longer payment period but offer will need to be larger). If the taxpayer fails to pay the offer within the required time, the offer is defaulted.
- Upon default, notice is given with the opportunity to protest.  
AGAIN, DEADLINES ARE SUPER IMPORTANT!!!



# IRS “People First Initiative”

- In relevant part, waived installment plan payments from April 2020 to July 15, 2020.



# Taxpayer Advocate

- The IRS Taxpayer Advocate Service can provide a lot of help if the IRS will not respond to you or you feel that your client is not being treated fairly.
- You can contact the Taxpayer Advocate in Boise at 208-363-8900. You will leave a message and they will contact you.
- I do not know how COVID-19 has affected TAS.





# Final Thoughts

- If you have a client subject to the trust fund penalty and a payment is made toward the employment tax liability by the company (or anyone else), PLEASE make sure that the check says “apply to trust fund recovery penalty.” Also include that language in the letter accompanying the check.
- Send all payments and correspondence by certified mail or FedEx/UPS and keep copies of everything.
- Document every material discussion with IRS representatives. If the IRS is not returning your calls, document by sending faxes and letters. This can be helpful later in the process.



# THANK YOU!!!

- If you have questions, please feel free to call me at 208-478-3475 or email at [dave@racineolson.com](mailto:dave@racineolson.com)