Indiana Legal Services, Inc

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Helping Survivors Deal with IRS Collections

DEALING WITH IRS COLLECTIONS

Not all of the tax issues faced by survivors are related to abuse. It is not unusual for survivors to have, for example, filed their own individual tax returns showing a balance due. There are many reasons why taxpayers file returns with a balance due.

- They may have had insufficient tax withheld from earnings or, if self-employed, failed to make estimated tax payments.
- A debt, such as a student loan, may have been cancelled during the tax year, which many people would not recognize as an event with tax consequences.
- They may have made a withdrawal from a retirement account, unaware of the 10% tax penalty on most withdrawals before age 59 ½.
- Some taxpayers make errors on their tax returns, which are later identified and corrected by IRS, resulting in a tax debt.

IRS Collection Actions & Collection Due Process hearings

IRS begins its collection efforts by sending the taxpayer a notice of tax due followed by bills with increasingly urgent requests for payment. If the taxpayer does not pay or set up an installment agreement, the case will move to collections. IRS can take a taxpayer's state or federal tax refund to apply to an existing tax debt.

Practice Tip

Prior to taking other property of the taxpayer, such as wages, savings, or Social Security benefits, I
Collection Due Process (CDP) hearing.

The purpose of the CDP hearing is to offer the taxpayer an opportunity to enter into a collection alte
economic hardship as a levy. A survivor can also request that Innocent Spouse Relief be considere

IRS will take no collection action during the time a timely request for a CDP hearing is pending.

IRS will issue a Notice of Determination at the conclusion of the CDP hearing process. A survivor who is not satisfied with the Notice of Determination has 30 days from the mailing date of the Notice to file a petition in U.S. Tax Court appealing the determination. No collection action will occur while the Tax Court case is pending.

Collection alternatives

Many survivors fail to request a timely Collection Due Process hearing. Fortunately, IRS will always consider a taxpayer's request for a collection alternative even while collection action is being taken. The alternatives to levy include:

- **Being placed in currently not collectible status**. IRS will take no collection action, other than keeping a taxpayer's refunds to pay down the tax debt, if a taxpayer shows that paying the tax will cause economic hardship. The taxpayer will be required to furnish IRS with information about the household's income, assets, and expenses. If all of the taxpayer's income is needed to meet allowable expenses, and the taxpayer has no assets from which the tax can be readily paid, IRS will place the taxpayer in currently not collectible status. The taxpayer can generally stay in currently not collectible status until there has been a significant increase in the taxpayer's income.
- **Entering into an installment agreement.** An installment agreement is a monthly payment plan with IRS. The taxpayer's refunds will be taken while the taxpayer is making installment agreement payments which will speed up the rate at which the tax is paid. Installment agreements can be set up online, by telephone or by sending IRS Form 9465, Installment Agreement Request. IRS will not take collection action against a taxpayer while a request for an installment agreement is pending or once the agreement is in effect. IRS will generally not require the taxpayer to provide financial information if the total tax debt is under $25,000 and the proposed payment amount will pay it in full within 72 months.
- **Negotiating settlement of a tax debt through the offer in compromise program**. IRS will often settle a taxpayers' tax debt for significantly less than is actually owed. The most common basis for settling a tax debt with IRS is "doubt as to collectability." IRS uses a formula, based on the taxpayer's income, assets, and allowable expenses, to calculate the amount required to settle the tax debt. IRS will take a taxpayer's refund and apply it to the underlying tax debt for any year in which an offer in compromise is pending before IRS, up to and including the year in which IRS accepts the offer. Offers must be submitted to IRS according to the instructions and using the forms contained in IRS Form 656-B, Offer in Compromise. Taxpayers are well advised to seek assistance from an experienced tax professional before submitting an offer in compromise to IRS.

Some tax debts can be discharged in bankruptcy. Survivors interested in this remedy should consult with a bankruptcy attorney who has experience dealing with tax debt.

Remember: IRS tax debts do not last forever! IRS will write off the balance due ten years after the tax was assessed, release any liens it has filed and cease collection activity. However, certain actions by the taxpayer, such as requesting innocent spouse relief or submitting an installment agreement or request for offer in compromise, will extend IRS's time to collect the debt.

The ILS Low Income Taxpayer Clinic is proud to partner with the Center for Survivor Agency & Justice. Together, we seek to provide education, represent
taxes. The content of this page is adapted from a chapter to an upcoming guidebook for survivors published by the CSAJ, the Guidebook on Consumer and

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