Individuals & General

Federal Tax Liens (FTL, NFTL) are often confused with levies.  A levy is the one which freezes bank accounts, seizes assets, and garnishes wages.  A lien on the other hand, has the potential to more damaging, but the effects are not as immediate.

A lien is a public record, filed at the county courthouse, stating that you owe the government money.  It protects the government’s interest in your real property (land, house, etc.) by preventing you from disposing of those assets without paying your balance first.

Contrary to a common misconception, the IRS does not report liens to the credit bureaus.  It used to be that the credit bureaus, because it is public record, would find that information and use it in their scoring.  About 5 years ago though, they quit doing this.

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If you have not filed 1 or more returns, the IRS will not work with you on a resolution to your case until you do.

Not filing has one of the easiest penalties to avoid (up to 25% or more).  If you know that you are going to owe on the return, file it anyway.  In the end you will owe it anyway and this avoids the “Failure to File” penalty.

If you owe the IRS and cannot pay, it may be beneficial to file an Offer in Compromise or “OIC”.

Basically, you will tell them that I owe $XXXX but I don’t have it.  I don’t have any assets or means of getting it and it is unlikely that I will get it in the next #years.  However, I can get $XX.  Will you accept that as full payment?

This is not a “magic bullet” though.  They will research your finances to make sure you have no assets and are unlikely to be able to full pay.  If so, they *may*accept your offer, with stipulations.

Wage garnishments are almost always due to a lack of communication or follow through.  If the IRS is trying to contact you but have not been able to, they may start a levy to get you to contact them.  Or, if they have asked something of you and you didn’t do it, they will start the wage levy to compel you to do it.

The good news is that, with communication, they’re pretty easy to stop.

If you are self-employed and/or required to make estimated tax deposits, it is in your best interest to do so, timely & accurately.

One of the biggest issues with deposits is that, because they are due quarterly, it is usually a significant amount, and you may not have that much.  To alleviate the issue, it is much better to make a bunch of smaller deposits.  Then at the end of the quarter, make adjustments.

There are basically two types of penalty abatements – Administrative and Reasonable cause.

The most common administrative abatement is known as “First Time Abatement”, or “FTA”.  If you have not had the same penalty in the past 3 years, you are considered to have a good compliance record and can request an FTA abatement.

The other is for reasonable cause.  In this case, I have found that nothing is reasonable unless you prove otherwise.  In other words, the default answer for reasonable cause request is no, unless you have the facts and substantiation to support that it was impossible for you to do whatever caused the penalty in the first place.

Of course, I am exaggerating (sort of).  Abatements for reasonable cause do happen but it is much harder to get than most people think.

Businesses

If I had to pick one issue that causes most problems for businesses, it would have to be not making timely & sufficient deposits.

Every business is required to make federal tax deposits unless your tax is of such a nominal amount, it isn’t worth it.

The deposits are due either quarterly, monthly, semi-weekly, or next day.

And, the most valuable piece of advice I could give, would be to make them more often and do not procrastinate.

If you have 10 full-time employees, making $10 hour, you will make monthly deposits of ~$3,000.  Or, if you do those deposits each week, when you do the payroll, you will make weekly deposits of ~$700.  Which is easier?

Every year the IRS & SSA compare their records.  Your W-2’s & W-3 have to match what you reported on the 941’s.   If they don’t, or if you do not file them, you can count on a substantial penalty that can be quite hard to get abated.

Even if your company will not owe tax, for 1120-S & 1065 returns in which no tax is due, may be assessed a penalty of $210 for each month or part of a month (up to 12 months) the return is late multiplied by the total number of persons who were shareholders/partners during any part of the tax year for which the return is due.

For an 1120-S, if tax is due, the penalty is the amount stated above plus 5% of the unpaid tax for each month or part of a month the return is late, up to a maximum of 25% of the unpaid tax.

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