
IRS Mission:

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

The IRS Collection Process

Publication 594

Keep this publication for future reference

This publication tells you the steps the Internal Revenue Service (IRS) may take to collect your balance due account. We send this publication with your final bill if our records show you owe overdue tax, penalty, or interest. We may:

- contact you by telephone,
- assign a revenue officer to resolve your account (the revenue officer may contact you in person), and/or
- take enforced collection action to collect the amount you owe.

We urge you to resolve your account to prevent possible enforcement action.

- Please pay immediately if you owe the amount shown on the bill.
- Contact us now if you believe the bill is incorrect so that we may correct any mistakes.

Page 2 of this publication provides information about how to contact us. We will work with you to solve your tax problem.

A number of IRS forms and publications apply to various situations discussed in this publication. To obtain these forms and publications, please visit our web site www.irs.gov, call us at 1-800-TAX-FORM (1-800-829-3676), write to us, or visit your local library or IRS office.

Please note that the information in this document applies to all taxpayers including individuals who owe income tax and employers who owe employment tax. A separate section on page 11 describes special rules that apply to employers only.

This document includes a summary of your rights and responsibilities concerning paying Federal taxes, in addition to discussing the legal authority that allows the IRS to collect taxes. Publication 594 is not a precise and technical analysis of the law; it is for information only.



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en español

Existe una versión de esta publicación en español, la Publicación 594SP, que puede obtener en la oficina local del Servicio de Impuestos Internos.

Information contained in this publication

Important Information You Should Know	4
What to Do When You Owe Taxes	5
Options to Pay Your Taxes	5
What If You Cannot Fully Pay Your Taxes?	5
About IRS Actions During the Collection Process	7
Offset	7
Liens	7
Levies	8
Summons	10
Collection of Employment Taxes	11
Referral to a Private Collection Agency	12
Boxed highlights	
What to do when you receive a bill from the IRS	3
Avoid having overdue taxes next year	3
What if you believe your bill is wrong?	3
There is a special program to help you	5
Especially for employers	10
Some property cannot be levied or seized	11
We offer you a number of free publications and forms	12



Do you have questions or need help right away? Call us. We're here to help you.



For tax information and help:

Call the number on the bill you received. If you do not have a bill, call 1-800-829-1040 for individuals or 1-800-829-4933 for businesses.



For tax forms and publications:

**1-800-TAX-FORM (1-800-829-3676)
1-800-829-4059 / TDD**



Access our Webpage on the Internet: www.irs.gov

**File Transfer Protocol – [ftp.irs.ustreas.gov](ftp://ftp.irs.ustreas.gov)
Online Payment Agreement –
<http://www.irs.gov/individuals/article/0,,id=149373,00.html>**

You will find answers to frequently asked tax questions, online tax forms, online publications, hot tax issues, news, and how to get help through e-mail.



If you prefer to write to us . . .

If you do not have a copy of your bill, print the following on any correspondence you send to us: your name, social security number or other taxpayer identification number, and the tax form and period shown on your bill.



You can also visit your nearest IRS office. . .

You will find the exact address in your local phone book under U.S. Government.

What to Do When You Receive a Bill from the IRS



If it is correct...

Pay the full amount now...

See page 5

If it is not correct...

Gather copies of:

- the bill
- any records
- tax returns, and

See page 4

If you are unable to pay in full...

Pay in monthly installments

- By: Direct Debit
 Payroll Deduction
 Check or Money

Order See page 5

or...

See page 6 for additional options

Possible Payment Sources:

- Available Funds (cash, stocks, bonds, or bank accounts)
- Loan
- Credit Card
- 401(k) Plan
- Life Insurance Policy

Contact us right away...



Call the number on the bill you received



Access our Web-page on the internet: www.irs.gov



Visit your local IRS office



Write to us at the address on your bill

Call the toll-free number if you require further assistance (1-800-829-1040).

You should understand the possible immediate and long-term effects of not paying your taxes when they are due or defaulting on an installment agreement. It can adversely affect your credit rating.

Avoid having overdue taxes next year

- If you owe taxes because you did not have enough money withheld from your income, you should claim a lower number of allowances on your Form W-4 or Form W-4P. See Publication 919, *How Do I Adjust My Tax Withholding?*
- Take advantage of the Electronic Federal Tax Payment System. (See Publication 966, *Electronic Choices to Pay All Your Federal Taxes*, check our website at www.eftps.com, or call 1-800-555-4477.)
- If you owe tax, you should increase your estimated tax payments. See Publication 505, *Tax Withholding and Estimated Tax*.
- If you are an employer, see Publication 15, *Circular E, Employer's Tax Guide*.

What if you believe your bill is wrong?

If you believe your bill is wrong, let us know as soon as possible.

- write to the IRS office that sent you the bill,
- call the IRS office that sent you the bill, or
- visit your local IRS office.

To help us correct the problem, gather a copy of the bill along with copies of any records, tax returns, and canceled checks, etc., that will help us understand why you believe your bill is wrong.

If you write to us, tell us why you believe your bill is wrong. With your letter, include copies of all the documents you gathered to explain your case. Please do not send original documents. If we find you are correct, we will adjust your account and, if necessary, send you a corrected bill.

Important information you should know

You have the right to be treated professionally, fairly, promptly, and courteously by IRS employees and Private Collection Agencies (PCAs) contacting you on behalf of the IRS. Among other rights, you have the right to:

- disagree with your tax bill,
- meet with an IRS manager if you disagree with the IRS employee who handles your tax case,
- appeal most IRS collection actions,
- have your case transferred to a different IRS office if you have a valid reason (such as if you move),
- be represented by someone when dealing with IRS matters, and
- receive a receipt for any payment you make.

For details about your rights, see Publication 1, *Your Rights as a Taxpayer*. You received a copy of it with your first bill.

Important information you should know

If you want someone to represent you

When dealing with the Internal Revenue Service (IRS), you may choose to represent yourself, or you may have an attorney, a certified public accountant, an enrolled agent, or any person enrolled to practice before the IRS represent you. For example, you may want your representative to respond to a tax bill that you believe is incorrect. Also, you can be represented by a member of your immediate family, or in the case of a business, by regular full-time employees, general partners or bona fide officers.

If you want your representative to appear without you, and to receive or inspect confidential material, you must file a Form 2848, *Power of Attorney and Declaration of Representative*, with the IRS. You may also authorize an individual to receive or inspect confidential material, but not represent you before the IRS, by filing a Form 8821, *Tax Information Authorization*.

Other items to note

● The IRS can share your tax information

By law, the IRS can share your tax information with city and state tax agencies, and in some cases with the Department of Justice, other federal agencies, and people you authorize. We can also share it with certain foreign governments under tax treaty provisions.

● We may contact a third party

The law allows us to contact someone else, such as neighbors, banks, employers, or employees, to investigate your case. You have the right to request a list of third parties contacted with respect to your case.

● Low Income Taxpayer Clinics (LITCs)

LITCs are independent organizations that provide low income taxpayers with representation in federal tax controversies with the IRS for free or for a nominal charge. The clinics also provide tax education and outreach for taxpayers with limited English proficiency or who speak English as a second language. Publication 4134, *Low Income Taxpayer Clinic List*, provides information on clinics in your area. It is available at www.irs.gov, your local IRS office, or by calling 1-800-TAX-FORM (1-800-829-3676).

● If you are involved in bankruptcy proceedings

Call the number on your tax bill or 1-800-829-1040 if you cannot find the bill, or contact your local IRS office. While the proceeding may not eliminate your tax debt, it may temporarily stop the IRS from collecting.

● Help for an innocent spouse

Generally, both you and your spouse are responsible, jointly and individually, for paying any tax, interest, or penalties due on your joint return. In some cases, a spouse (or former spouse) may be relieved of liability on a joint return. For more information, see Publication 971, *Innocent Spouse Relief*. If you believe you should not be held responsible for any joint liability, you must file a claim for relief on Form 8857, *Request for Innocent Spouse Relief*. You must file Form 8857 within 2 years after the first date the IRS attempted to collect the tax following July 22, 1998. Collection activity that starts the two-year period includes:

- A refund offset notice dated March 7, 2005 or later. (A refund offset notice advises you that the IRS applied your income tax refund to an amount you owed on a joint tax return.)
- A claim for the joint liability filed in a proceeding which involves your property, for example, a proof of claim in a bankruptcy proceeding.
- The filing of a suit by the United States against you to collect the joint liability.
- The issuance of a notice informing you of the IRS' intent to levy and your right to a Collection Due Process (CDP) hearing with respect to a joint liability.

● Appeal process

If you disagree with the decision of an IRS employee at any time during the collection process, you may ask that employee's manager to review your case.

When you ask for a review, the employee will refer you to a manager. The manager will either speak with you then or will return your call by the next work day.

If you disagree with the manager's decision, you have the right to file an appeal under the Collection Appeals Program. This program enables you to appeal most collection actions we may take, including filing a lien, placing a levy on your wages or bank account, or seizing your property. You also will have an opportunity to request a CDP hearing with the IRS Office of

Appeals after the initial filing of a *Notice of Federal Tax Lien* for each liability. You also will have an opportunity to request a CDP hearing prior to the initial levy action, unless collection of the tax is in jeopardy or the levy is on your state tax refund. In these two cases, you may ask for a CDP hearing after the levy. See Publication 1660, *Collection Appeal Rights*, for more information.

● Time period for collecting taxes

By law, the IRS has the authority to collect outstanding Federal taxes for 10 years from the date your tax liability was assessed. The 10-year collection period is suspended:

- while the IRS and the Office of Appeals consider a request for an installment agreement or an offer in compromise.
- from the date you request a CDP hearing until Appeals issues a CDP *Notice of Determination* or, if you seek review in the Tax Court, until the Tax Court's decision becomes final, including appeals to a United States Court of Appeals.
- from the date you request innocent spouse relief until a final *Notice of Determination* is issued or, if you seek review in the Tax Court, the date the Tax Court decision becomes final and for 60 days thereafter. If, however, you appeal the Tax Court's decision regarding your right to innocent spouse relief to a United States Court of Appeals, the collection period will begin to run 60 days after the filing of the appeal unless a bond is posted with the appeal.
- for tax periods included in a bankruptcy while the automatic stay is in effect, plus an additional six months.
- while you are residing outside the United States, if you are absent for a continuous period of at least six months.

The amount of time the suspension is in effect will be added to the time remaining in the 10-year period. For example, if the 10-year period is suspended for six months, the time left in the period we have to collect will increase by six months.

There is a special program to help you with tax problems that cannot be resolved through normal IRS channels

The Taxpayer Advocate Service is an independent organization within the IRS whose employees assist taxpayers who are experiencing economic harm, who are seeking help in resolving tax problems that have not been resolved through normal channels, or who believe that an IRS system or procedure is not working as it should. You may be eligible for assistance if you:

- are experiencing economic harm or significant costs (including fees for professional representation),
- have experienced a delay of more than 30 days to resolve your tax issue, or
- have not received a response or resolution to the problem by the date promised by the IRS.

The service is free, confidential, tailored to meet your needs, and available for businesses as well as individuals. There is at least one local taxpayer advocate in each state, the District of Columbia, and Puerto Rico. Because advocates are part of the IRS, they know the tax system and how to navigate it. If you qualify, you will receive personalized service from a knowledgeable advocate who will:

- listen to your problem,
- help you understand what needs to be done to resolve it, and
- stay with you every step of the way until your problem is resolved.

You may contact the Taxpayer Advocate Service by:

- calling their toll-free case intake line at 1-877-777-4778 or TTY/TTD 1-800-829-4059, or
- writing or calling your local taxpayer advocate, whose address and phone number are listed in the government listings in your local telephone directory and in Publication 1546, *The Taxpayer Advocate Service of the IRS - How to Get Help With Unresolved Tax Problems*,
- filing Form 911, *Application for Taxpayer Assistance Order*, with the Taxpayer Advocate Service, or
- asking an IRS employee to complete Form 911 on your behalf.

To get a copy of Form 911 or learn more about the Taxpayer Advocate Service, go to www.irs.gov/advocate.

What to do when you owe taxes

Options to Pay Your Taxes

When you file your tax return, we check to see if the math is accurate and if you have paid the correct amount. If you have not paid all you owe, we send a bill called a *Notice of Tax Due and Demand for Payment*. The bill includes the taxes plus interest and penalties. It is in your best interest to pay your tax liability in full to minimize the amount of interest and penalty charged. You may pay your taxes by credit card, electronic funds transfer, check, money order, or cash. Take advantage of the Electronic Federal Tax Payment System (EFTPS) to pay by electronic funds transfer. See Publication 966, *Electronic Choices to Pay All Your Federal Taxes*, access the website at www.eftps.com, or call 1-800-555-4477.

Credit card options are available through two service providers. The credit card payment service

providers will charge a fee for this service. Fees are based on the amount of the payment and may vary by service provider. Taxpayers may initiate a credit card payment by contacting:

- Link2Gov Corporation at 1-888-PAY1040 (1-888-729-1040) or online at www.pay1040.com, or
- Official Payments Corporation at 1-800-2PAYTAX (1-800-272-9829) or online at www.officialpayments.com.

It may be to your advantage to pay by borrowing. The interest rate your credit card issuer or bank charges may be lower than the combination of interest and penalties imposed by the Internal Revenue Code. For further information on interest and penalty rates, see Notice 746, *Information About Your Notice, Penalty, and Interest*.

What If You Cannot Fully Pay Your Taxes?

If you cannot pay all your taxes immediately, pay as much as you can now because by paying now, you will reduce the amount of interest and penalty you will owe. Then immediately call, write, or visit the nearest IRS office to explain your situation.

After you explain your situation, we may ask you to complete a Collection Information Statement and provide documentation to substantiate your information. Collection Information Statements (Form 433-F, *Collection Information Statement (ACS)*, Form 433-A, *Collection Information Statement for Wage Earners and Self-Employed Individuals*, and Form 433-B, *Collection Information Statement for Businesses*) help us compare your monthly income with your monthly expenses to determine the amount you can pay. Based on your situation, we may work with you to consider several different ways to pay:

- You may be able to make monthly payments through an installment agreement. We can set up a direct debit from your financial institution or a payroll deduction from your wages or salary. (See page 6.)
- You may qualify for a temporary delay if your case is considered a hardship. (See page 6.)
- In some cases, you may qualify for an Offer in Compromise. (See page 6.)

Request an Installment Agreement

Installment agreements allow the payment of your debt in smaller, more manageable amounts. Installment agreements generally require equal monthly payments that will result in full payment of the tax you owe within the time left in the 10-year period during which the IRS can collect the tax from you. If you cannot pay your tax in full by the end of the collection period, but can pay some of the tax you owe, you may qualify for a partial payment installment agreement. Go to www.irs.gov for more information about partial payment installment agreements.

For all installment agreements, the amount of your installment payment will be based on the amount you owe and your ability to pay that amount within the time left in the 10-year period. To be eligible for an installment agreement, you must file all required returns. If you are an employer, you must be current with federal tax deposits.

If you owe less than \$25,000, you may be eligible to use our Online Payment Agreement web application. To access the application, go to www.irs.gov. Use the pull-down menu under "I need to..." and select "Set Up a Payment

Plan.” (The direct link to the Online Payment Agreement is <http://www.irs.gov/individuals/article/0,,id=149373,00.html>)

You may also request an installment agreement using Form 9465, *Installment Agreement Request*, or Form 2159, *Payroll Deduction Agreement*, by calling the number on your bill, or 1-800-829-1040 if you cannot find your bill or by visiting your local IRS office. If you choose to complete one of these forms to apply for an installment agreement, you should mail the completed form to the address listed on your bill.

When you arrange for an installment agreement, it may be to your advantage to pay by electronic funds withdrawal from your financial institution (Line 13 of Form 9465) or payroll deduction from your wages (Form 2159). These two types of payment arrangements will help you avoid termination of your installment agreement by ensuring timely payments and preventing enforced collection action. These types of agreements will also reduce the burden of having to mail the payments and will save you postage.

A user fee will be charged to set up your installment agreement. The fee is \$52 for direct debit installment agreements, where payments are deducted directly from your financial institution, and \$105 for other agreements. Taxpayers with income at or below established levels, based on the Department of Health and Human Services Poverty Guidelines, may apply and be qualified to pay a reduced user fee of \$43 for establishing new agreements, including direct debit installment agreements.

We generally cannot levy against your property:

- while your request for an installment agreement is being considered,
- while your agreement is in effect,
- for 30 days after your request for an agreement has been rejected,
- for 30 days after our termination of an installment agreement (due to your default of the agreement), or
- while your appeal of the rejection or termination is being evaluated by the IRS Office of Appeals.

However, a *Notice of Federal Tax Lien* may be filed to secure the Government's interest against other creditors. (See page 7.)

If you already have an approved installment agreement from a previous tax debt and your financial situation has changed, we may be able to

modify your monthly amount. A reinstatement fee of \$45 will be charged, regardless of income level, if we change the monthly amount at your request. You may have to complete a *Collection Information Statement* explaining your financial situation.

If you have requested an installment agreement, and a decision to grant this agreement is pending, it is recommended that you make voluntary payments while approval is pending. Acceptance of these interim payments by the IRS should **not** be construed as acceptance of the proposed installment agreement. You will be notified in writing regarding the acceptance or rejection of your request for an installment agreement. You may ask the IRS Office of Appeals to review our rejection of your installment agreement. See Publication 1660, *Collection Appeal Rights*, for more information.

Termination of your installment agreement may cause the filing of a *Notice of Federal Tax Lien* and/or an IRS levy action. You may ask the IRS Office of Appeals to review our termination of the installment agreement due to your default. See Publication 1660, *Collection Appeal Rights*, for more information. Either the filing of a lien or a levy can be very damaging to your credit worthiness and cause financial difficulties. If a defaulted agreement is reinstated, the reinstatement fee of \$45 will be charged, regardless of your income level.

Request a Temporary Delay in the Collection Process

If we determine that you cannot pay any of your tax debt, we may temporarily delay collection until your financial condition improves. You should know that if we do delay collecting from you, your debt will increase because penalties and interest are charged until you pay the full amount. During a temporary delay, we will again review your ability to pay. We may also file a *Notice of Federal Tax Lien* (see page 7) to protect the Government's interest in your assets.

Apply for an Offer in Compromise

The IRS may accept an Offer in Compromise (OIC) to settle unpaid tax accounts for less than the full amount of the balance due. This applies to all taxes, including any interest, penalties, or additional amounts arising under the Internal Revenue laws. The OIC program is an option for those taxpayers who are unable to pay their tax account in a lump sum or through an installment agreement and have exhausted their search for other payment arrangements.

The IRS may legally compromise a tax liability for one of the following reasons:

- **Doubt as to liability** - there is doubt as to whether or not the assessed tax is correct,
 - **Doubt as to collectibility** - there is doubt that you could ever pay the full amount of the tax owed. In these cases, the total amount you owe must be greater than the sum of your assets and future income, or
 - **Promote effective tax administration** - there is no doubt that the assessed tax is correct and no doubt that the amount owed could be collected, but you have an economic hardship or other special circumstances which may allow the IRS to accept less than the total balance due.
- For offers received after July 16, 2006, there are three types of OIC payment terms that the IRS and the taxpayer may agree to:
- **Lump Sum Cash** - must be paid within 5 or fewer installments from notice of acceptance.
 - **Short Term Periodic Payment** - must be paid within 24 months (2 years) from the date the IRS receives the OIC.
 - **Deferred Periodic Payment** - must be paid within 25 months or longer, but within the time remaining on the 10-year period for collection.

An OIC submitted as a lump sum cash offer, must include the \$150 application fee and a nonrefundable payment of 20 percent of the offered amount, with the balance to be paid in no more than 5 installments from the notice of acceptance.

An OIC submitted as a periodic payment offer (short term or deferred) must include the \$150 application fee and a nonrefundable initial proposed periodic payment with the offer. The remaining proposed periodic payments must continue to be made while the offer is being evaluated.

Taxpayers with income at or below established levels, based on the Department of Health and Human Services Poverty Guidelines, are not required to submit the \$150 application fee, 20% of the amount of a lump sum cash offer, the first installment of a periodic payment offer, or subsequent installment payments for a periodic payment offer while that offer is being evaluated, as described above. Until further guidance is issued, you should use the worksheet to Form 656-A, *Income Certification for Offer in Compromise Application Fee*, to determine if you qualify as a low-income taxpayer who is not required to make these payments. The worksheet may be found in Form 656, *Offer in Compromise*.

You may submit an OIC by completing Form 656. If you are basing your offer on doubt as to collectibility or promotion of effective tax administration, you must also submit Form 433-A, *Collection Information Statement for Wage Earners and Self-Employed Individuals* or Form 433-B, *Collection Information Statement for Businesses*, with supporting documentation. There may be instances where both a Form 433-A and Form 433-B must be submitted. After acceptance of an offer, you must remain current with filing and paying requirements for five years or until the amount of the offer is paid in full, whichever is longer. You may ask the IRS Office of Appeals to review our rejection of your Offer in Compromise. See Publication 1660, *Collection Appeal Rights*, for more information.

For additional information about the OIC program, visit www.irs.gov or see Form 656, *Offer in Compromise*.

About IRS Actions During the Collection Process

Before we take any **enforced collection action** explained in this section, we will contact you to give you a chance to voluntarily pay what you owe. We will send you a *Notice of Tax Due and Demand for Payment*, a bill that tells you how much you owe in taxes. We may send you other bills asking for payment. If you have an income tax refund, we will offset the refund against your tax liability. If you do not pay your taxes in full and do not contact us to let us know why you cannot pay or why you disagree with our decision to take enforcement action, the law requires us to take action. We may:

- **File a Notice of Federal Tax Lien** against your property (make a legal claim to your property as security for the payment of your tax debt) (see the information below),
- **Serve a levy** on your property or salary (legally seize your property to satisfy a tax debt) (see page 8),
- **Serve a Summons** to secure information, records, or testimony (see page 10), or
- **Assess a trust fund recovery penalty** for the failure to pay withheld employment taxes or collected excise taxes (see page 11).

These **actions** are the methods we can use to enforce the *Notice of Tax Due and Demand for Payment*. On the following pages, we explain collection actions or information gathering tools, and the rules that govern them.

Offset

If you have overpaid your taxes for one tax period, but owe taxes for another, the law allows us to apply your refund to reduce the unpaid tax. If you are a non-liable spouse and we offset a Federal income tax refund belonging to you and your liable spouse, you may request return of your share of the refund by filing Form 8379, *Injured Spouse Allocation*. See Publication 4183, *Injured Spouse Claims*, for more information.

Liens

Liens give us a legal claim to your property as security for payment of your tax debt. The federal tax lien arises when:

- we assess the liability,
- we send you a *Notice and Demand for Payment*, and
- you neglect or refuse to fully pay the debt within 10 days after we notify you about it.

We then may file a *Notice of Federal Tax Lien* in the public records. By filing a *Notice of Federal Tax Lien*, your creditors are publicly notified that we have a claim against all your property, including property you acquire after the lien was filed.

The lien attaches to all your property (such as your house or car) and to all your rights to property (such as the accounts receivable of your business).



Once a lien is filed, your credit rating may be harmed. A lien may affect your ability to get a loan, buy a house or a car, get a new credit card, or sign a lease.

Releasing a lien

Usually 10 years after a tax is assessed, a lien releases automatically if we have not filed it again or issued a *Certificate of Release of Federal Tax Lien*.

We will issue a *Certificate of Release of the Federal Tax Lien*.

- within 30 days after we determine that the tax due (including accrued interest and penalties and other additions) is satisfied by paying the debt and/or by having it adjusted, or
- within 30 days after we accept a bond that you submit, guaranteeing payment of the debt.

You must pay all fees that a state or other jurisdiction charges the IRS to file and release the lien. These fees will be added to the amount you owe. See Publication 1450, *Instructions on How*

to Request a Certificate of Release of Federal Tax Lien.

We will issue a *Certificate of Release of Federal Tax Lien* within 14 days after we determine that at the time the IRS filed the *Notice of Federal Tax Lien* the taxpayer had no outstanding tax liability due for the periods listed on the Notice, the assessment was invalid, or the time period for collecting the tax ended.

If we knowingly or negligently do not release a *Notice of Federal Tax Lien* when it should be released, you may be entitled to recover economic damages. Some limitations may apply. You must file an administrative claim with the IRS Technical Services Advisory Group assigned to your state, area or county where you live or in which the *Notice of Federal Tax Lien* was filed. Mail your written claim to the attention of the Advisory Group Manager at the address listed in Publication 4235, *Technical Services (Advisory) Group Addresses*. If the claim is denied, you may sue the Federal Government, but not IRS employees, for economic damages.

Payoff amount

The amount shown on the *Notice of Federal Tax Lien* is the unpaid balance on the date the Notice is created. The Notice will not be updated to show changes in the amount you owe that occur because of the accrued interest and additions to tax or because of your payments. However, at any time, you may request an updated lien payoff amount to show the remaining balance due by calling the toll-free customer service telephone number at 1-800-913-6050. An IRS employee will issue you a letter with the current amount that must be paid before we release the *Notice of Federal Tax Lien*.

Applying for a discharge of the tax lien from property

If you sell property subject to a tax lien, such as your home, or pay your tax liability equal to the value of the property secured by the tax lien, you may apply for a *Certificate of Discharge*. Each application for a *Certificate of Discharge* of a tax lien requests release of the lien against one piece of property. Note that when certain conditions exist, a third party may also request a *Certificate of Discharge*. For instructions regarding how to apply for a certificate of discharge, see Publication 783, *Instructions on How to Apply for a Certificate of Discharge of Property from Federal Tax Lien*.

If you are selling your primary residence, you may apply for a taxpayer relocation expense allowance. In general, this allowance will be granted if the IRS determines you are unable to

pay relocating expenses, but certain conditions and limitations apply. You may apply for the relocating expense allowance by submitting Form 12451, *Request for Relocation Expense Allowance*, to the IRS.

Making the tax lien secondary to another lien

In some cases, a creditor may refuse to extend credit to you unless their lien will be satisfied before the tax lien. Subordination is the process that can make a Federal tax lien secondary to another lien. For example, you may ask for a subordination of the tax lien to refinance the mortgage on your house. For more information, see Publication 784, *How to Prepare an Application for a Certificate of Subordination of Federal Tax Lien*.

Withdrawing a Notice of Federal Tax Lien

We will withdraw a *Notice of Federal Tax Lien* if the Notice was filed during a bankruptcy automatic stay period.

We may withdraw a *Notice of Federal Tax Lien* if we determine:

- the Notice was filed too soon or not according to IRS procedures,
- withdrawal will allow you to pay your taxes more quickly, or
- withdrawal would be in your best interest (as determined by the National Taxpayer Advocate) and the best interest of the Government.

We will give you a copy of the withdrawal, and if you send us a written request, we will send a copy to other institutions you name.

Appealing the filing of a Notice of Federal Tax Lien

We are required by law to give written notice of your right to a Collection Due Process (CDP) hearing not more than 5 business days after the first filing of a *Notice of Federal Tax Lien* for each tax liability. Normally, we will notify you by certified mail sent to your last known address, although we may give you this notice in person, or leave it at your home or your usual place of business. You may request a CDP hearing with the IRS Office of Appeals by sending a request for a hearing to the address shown on your notice. You must file your request by the date shown on your notice. Refer to Form 12153, *Request for a Collection Due Process or Equivalent Hearing*, for more information about filing a hearing request and for a list of issues you may wish to discuss at your CDP hearing.

At the conclusion of your CDP hearing, the

IRS Office of Appeals will issue a determination. Appeals may determine that the *Notice of Federal Tax Lien* should remain filed, or it may determine that the *Notice of Federal Tax Lien* should be withdrawn or the lien should be released, discharged or subordinated. You will have 30 days after the date of the determination, to seek review of the determination in the United States Tax Court. In addition, you may appeal under the Collection Appeals Program (CAP), the proposed filing of a *Notice of Federal Tax Lien* or the actual filing of a Notice if CDP rights are not available. You may also appeal, under CAP, our denial of your request for withdrawal of the *Notice of Federal Tax Lien* and our denial of your request for a *Certificate of Discharge* or a *Certificate of Subordination of Federal Tax Lien*. See Publication 1660, *Collection Appeal Rights*, for more information.

If a *Notice of Federal Tax Lien* is filed to collect your tax liabilities, call the number on the notice informing you that a lien has been filed, or 1-800-829-1040 if you cannot find the notice. The contact person listed on the notice or other representative will answer your questions and attempt to resolve your tax problem. You also may ask the representative's manager to review your case. If the matter is still unresolved, the manager can explain your rights to appeal to the IRS Office of Appeals.

Levies

A levy is a legal seizure of your property to satisfy a tax debt. Levies are different from liens. A lien is a claim used as security for the tax debt, while a levy actually **takes the property** to satisfy the tax debt.

If you do not pay your taxes (or make arrangements to settle your debt):

- we could seize and sell property that you hold (such as your car, boat, or house), or
- we could levy property that is yours but is held by someone else (such as your wages, retirement accounts, dividends, bank accounts, rental income, accounts receivables, the cash value of your life insurance, or commissions).

We usually levy only when the following three conditions have occurred:

- we assessed the tax and sent you a *Notice and Demand for Payment*,
- you neglected or refused to pay the tax, and
- we sent you a *Final Notice of Intent to Levy and Notice of Your Right to A Hearing* (levy notice) at least 30 days before the levy. We usually send this notice to your last known address

by certified mail, return receipt requested, but we may give this notice to you in person, or leave it at your home or your usual place of business. Please note: If we levy your state tax refund, we may send you a *Notice of Levy on Your State Tax Refund - Notice of Your Right to Hearing* after the levy.

Appealing a levy

You may request a CDP hearing with the Office of Appeals by sending a request for a CDP hearing to the address shown on your notice. You must file your request within 30 days of the date on your notice. Refer to Form 12153, *Request for a Collection Due Process or Equivalent Hearing*, for more information about filing a hearing request and for a list issues you may wish to discuss at your CDP hearing.

At the conclusion of your hearing, the Office of Appeals will issue a determination. You will have 30 days after the date of the determination to seek review of the determination by the United States Tax Court. In addition, you may appeal a proposed or actual levy under the Collection Appeal Program if CDP rights are not available. See Publication 1660, *Collection Appeal Rights*, for more information.

If your property is levied or seized, call the number on the notice informing you that a levy or seizure has occurred, or 1-800-829-1040 if you cannot find the notice. The contact person listed on the notice or other representative will answer your questions and attempt to resolve your tax problem. You also may ask the representative's manager to review your case. If the matter is still unresolved, the manager can explain your rights to appeal to the IRS Office of Appeals.

Levying your wages, or your bank account

A levy on your wages, salary, commissions, or other payments for personal services does not need to be served each time you are paid. Once we serve a levy, the levy continues until your tax debt is paid in full or other arrangements are made to satisfy the debt, or the time period for collecting expires.

If we place a levy on your bank account, the levy attaches deposits that have cleared and funds that are available for withdrawal when the levy is received, up to the amount of the levy. The bank must wait until 21 days after a levy is received before sending the money. The holding period allows you time to resolve any dispute about account ownership. After 21 days, the bank must send the money, plus, if applicable, any interest earned on that amount.

Filing a wrongful levy claim

If your property has been levied to collect a tax for which you are not liable, you may be entitled to the return of the wrongfully levied property by filing a claim pursuant to Internal Revenue Code (IRC) section 6343(b). Instead of filing a claim with us, you may file a suit for wrongful levy pursuant to IRC section 7426. See Publication 4528, *Making an Administrative Wrongful Levy Claim under Internal Revenue Code (IRC) Section 6343(b)*, for more information.

For example, you may file an administrative wrongful levy claim for a return of your share of levied property if you are a non-liable spouse and we levy a state income tax refund or a bank account belonging to you and your liable spouse. However, if you are a resident of, or if the property is located in, a state with community property laws, different rules will apply that may limit or eliminate your claim. If you believe that you qualify, call the number on the notice that informs you that a levy has occurred, or call 1-800-829-1040 if you cannot find the notice.

Filing a claim for reimbursement when we made a mistake in levying your account

If you paid bank charges because of a mistake we made when we levied your account, you may be entitled to a reimbursement. To be reimbursed, you must file a claim with us within 1 year after your bank charged you the fee. Use Form 8546, *Claim for Reimbursement of Bank Charges Incurred Due to Erroneous Service Levy or Misplaced Payment Check*.

Levying your federal payments through the Federal Payment Levy Program

The following is a list of federal payments you may receive that we can levy under the Federal Payment Levy Program in order to pay your tax debt.

- Federal retirement annuity income from the Office of Personnel Management,
- Social Security benefits under Title II of the Social Security Act (OASDI),
- Federal contractor/vendor payments, or
- Federal employee salary and travel payments.

This program electronically levies these federal payments from the Department of the Treasury, Financial Management Service. If we electronically levy your federal payments, the levy will take 15% (or the exact amount of taxes owed if less than 15%). For defense contractor payments, however, the levy will take 100% (or the exact amount of

taxes owed). The levy will be continuous until your tax debt is paid in full, other arrangements are made to satisfy the debt, or in most instances, the time period for collecting the tax expires.

If you are already working with an IRS employee, call that employee for assistance. If you are not working with an IRS employee and:

- you receive federal contractor/vendor payments, please call 1-800-829-3903 for assistance, or
- you receive any other federal payment, please call 1-800-829-7650 for assistance.

Releasing a levy

In general, we must release a levy if :

- you pay the tax, penalty, and interest you owe,
- we discover that the time period for collection ended before the levy was served,
- we levied before we sent you the two required pre-levy notices or before your time for responding to them has passed (10 days for the *Notice and Demand for Payment*; 30 days for the *Notice of Intent to Levy* and the *Notice of Right to Hearing*),
- the automatic stay during your bankruptcy is in effect,
- the levy is on property that we are not allowed to levy,
- we levy while the IRS is considering your offer in compromise or installment agreement request,
- we levy while the IRS Office of Appeals is considering your appeal of our rejection of your offer in compromise or installment agreement request,
- we levy while you have an accepted periodic payment offer in compromise or installment agreement in effect,
- we levy while the IRS Office of Appeals is considering your appeal of our termination of your installment agreement.
- we levy while the IRS Office of Appeals is conducting your timely requested CDP hearing under IRC 6330 or during the United States Tax Court review of the CDP determination (unless the Court has issued an order permitting the levy),
- we levy while we, or the IRS Office of Appeals, considers your timely request for innocent spouse relief or during the timely requested review by the Tax Court.

We will release a levy if:

- we determine that the levy is creating an economic hardship for you,
- we determine the fair market value of the property exceeds the liability for which the levy was made, and release of the levy on part of the property can be made without hindering the collection of the liability, or
- we determine the expense of selling your property would be greater than the Government's interest in the property.

We may also release a levy if we determine that releasing the levy will help us collect the tax. In general, releasing a levy will help us collect the tax if:

- you pay the amount of the Government's interest in the property,
- you enter into an escrow arrangement,
- you furnish an acceptable bond,
- you enter into an installment agreement (unless the agreement says the levy does not have to be released), or you make some other acceptable agreement for paying the tax, or
- you agree to extend the 10-year period we have to collect your tax (but you must agree before the time period ends).

Returning levied property

If you request the return of levied property within nine months from the date of the levy, we may consider returning the property if:

- at the time the levy was served, there existed one of the conditions requiring us to release the levy,
- we did not follow proper procedures,
- we agree to let you pay in installments, but we still levy, and the agreement does not say that we can do so,
- returning the property will help you pay your taxes, or
- returning the property is in both your best interest (as determined by the National Taxpayer Advocate) and the Government's best interest.

If we decide to return your property but the property has already been sold, we will give you the amount of the money we received from the sale.

Selling your property

We will give a public notice of a pending sale, usually in local newspapers or by posting flyers in the local post office or other public places. We will deliver the original notice of sale to you or send it to you by certified mail to your last known address.

After giving public notice of the sale, we must wait at least ten days before conducting the sale, unless the property is perishable and must be sold immediately.

Before the sale, we will compute a **minimum bid price** and give you notice of our computation. This bid price is usually 80% or more of the forced sale value of the property, after subtracting the value of the property secured by liens senior to the tax lien.

If you disagree with this price, you may ask that the price be computed again by either the IRS or a private appraiser (at your expense).

You may also ask that we sell the seized property within 60 days after the levy. For information about how to do so, call the IRS employee who made the seizure at the number listed on the notice that informs you that the levy has occurred. We will grant your request, unless it is in the Government's best interest to hold the property for a later sale. We will send you a letter telling you of our decision on your request.

After the sale, we first use the proceeds to pay the expenses of the levy and sale. Then we use any remaining amount to pay the tax bill.

- **If the proceeds of the sale are less than the total of the tax bill and the expenses of levy and sale**, you will still have to pay the unpaid tax.
- **If the proceeds of the sale are more than the total of the tax bill and the expenses of the levy and sale**, we will notify you about the surplus money and will tell you how to ask for a refund. However, if someone, such as a mortgagee or other lien holder, makes a claim that is superior to yours, we will pay that claim before we refund any money to you.

Redeeming your real estate

You (or anyone with an interest in the property) may redeem your real estate within 180 days after the sale. You must pay the purchaser the amount paid for the property, plus interest at 20% annually.

Filing a claim for damages caused by unauthorized collection

If we intentionally, recklessly, or negligently disregard the Internal Revenue laws in connection with the collection of your taxes or, if you are not the taxpayer in connection with a wrongful

levy, you may be entitled to recover economic damages. Some limitations may apply. You must file an administrative claim with the IRS Technical Services Advisory Group assigned to your state, area or county. Mail your written claim to the attention of the Advisory Group Manager at the address listed in Publication 4235, *Technical Services (Advisory) Group Addresses*. If the claim is denied, you can sue the Federal Government, not IRS employees, to recover economic damages.

Summons

A summons is an investigatory tool, similar to a subpoena, that will compel you or a third party to provide information, documents or testimony that will enable us to determine or collect your tax liability.

Taxpayer Summons

We may serve a summons on you, as the person responsible for the tax liability, to:

- compel testimony,
- bring in books and records to prepare a tax return, or
- bring in documents and records to assist us in preparing a Form 433, *Collection Information Statement*.

Third-Party Summons

In some cases, a third-party summons is issued. Some examples of who could be issued a third-party summons include:

- financial institutions,
- third-party record keepers,
- persons who are not available to cooperate on an informal request, or
- any person with information that may be relevant to your case.

IRC section 7609 authorizes the Service to issue a third-party summons. If you are entitled to notice:

- you will be given notice, usually by mail, within 3 days after the the summons is served,
- you have the legal right to file a petition to quash the summons or to intervene in a suit to enforce a summons to which the third party failed to respond,
- you may file a petition to quash. If you choose to file one, you must do so within 20 days after notice is given (if notice was given by mail, the petition to quash must be filed within 20 days after notice of the summons was mailed), and
- the Service will not examine the summoned

Especially for employers

Employment taxes are:

- the amount you must withhold from your employees for both income and Social Security/Medicare tax, plus
- the amount of Social Security/Medicare tax you pay on behalf of each employee.



If you ignore the Federal tax deposit and filing requirements, the amount you owe can increase drastically.

If you do not pay your employment taxes on time, or you did not include the required payment with your return, we will charge you interest and penalties on any unpaid balance. We may charge you penalties of up to 15% of the amount not deposited, depending on how many days late you are.

If you do not pay withheld trust fund taxes, we may take additional collection action. We may require you to:

- file and pay your taxes monthly rather than quarterly, and/or
- open a special bank account for the withheld amounts.

See Form 8109, *Federal Tax Deposit Coupon* and Publication 15, *Circular E, Employer's Tax Guide*.

If we require you to create a separate bank account for the employment taxes and you fail to deposit your taxes in the account, you may be subject to criminal prosecution. We may charge you criminal penalties such as a fine up to \$100,000.00 and up to one year in jail upon conviction.

See Publication 535, *Business Expenses*, for information on how to deduct interest paid as a business deduction.

information or take summoned testimony until 23 days after the day notice was given.

You are not, however, entitled to notice of a third-party summons we issue solely to aid in the collection of an assessed liability or judgment. If your liability is assessed and we issue a third-party summons as part of our effort to collect that assessed liability, you will not be given notice of that summons, nor will you be allowed to file a motion to quash or intervene in a suit to enforce the summons.

Summons about a Trust Fund Recovery Penalty

Summonses are frequently served to enable the Service to determine which individuals are responsible for a trust fund recovery penalty. Additional information on the trust fund recovery penalty is provided in this publication.

Enforcement of Summons

Failure or neglect to appear before the Service after a summons is issued may result in further legal actions against you. These actions may include an enforcement suit, a contempt hearing, and a contempt order.

If you are unable to appear before the Service on the appointed day and time listed on your summons, it is imperative that you contact the office/individual issuing the summons. The phone number and address will be on the summons.

Collection of Employment Taxes

To encourage prompt payment of withheld employment taxes and collected excise taxes, Congress passed a law that provides for the Trust Fund Recovery Penalty. (These taxes are called *Trust Fund taxes* because the employer actually holds the employee's withheld taxes or the collected excise taxes in trust until the employer makes a federal tax deposit in the amount of the withheld or collected taxes.)

If we plan to assess you for the trust fund recovery penalty, we will send you a letter stating that you are a *responsible* person. You have 10 days after we send our letter to tell us why you disagree and 60 days after we send our letter to appeal our proposed assessment to the IRS Office of Appeals. If you do not respond to our letter, we will assess the penalty against you and send you a *Notice and Demand for Payment*. We may assess this penalty against a responsible person whether or not the company is still in business.

A responsible person is an individual or group of people (there may be more than one responsible person) who had the duty to perform and the power to direct the collection and payment of trust fund taxes. A responsible person may be:

- an officer or an employee of a corporation,
- a member or employee of a partnership,
- a corporate director or shareholder,
- a member of a board of directors of a nonprofit organization, or
- another person with authority and power to direct the disbursement of funds.

Assessing the Trust Fund Recovery Penalty

We may assess the penalty against anyone:

- who is responsible for collecting and paying withheld income and employment taxes, or for paying collected excise taxes, and

- who willfully fails to collect and pay them.

Willfulness exists if the responsible person:

- knew about the unpaid taxes, and
- used the withheld or collected funds to keep the business going, allowed available funds to be paid to other creditors other than the IRS, or otherwise failed to pay over the taxes to the IRS.

In addition to these civil penalties and remedies, there are possible criminal ones, as well.

Figuring the Penalty Amount

The amount of the penalty is equal to the unpaid balance of the trust fund taxes. The penalty is computed based on:

- the unpaid income taxes that should have been withheld, or were withheld but not paid over, plus
- the employee's portion of the Social Security/Medicare taxes that should have been withheld, or were withheld but not paid over.

For collected excise taxes, the penalty is based on the unpaid amount of collected excise taxes.



Once we assert the penalty, we may take collection action against your personal assets if you do not pay the penalty after being sent a *Notice of Tax Due and Demand for Payment*. For instance, we may file a *Notice of Federal Tax Lien* against you, if you are a responsible person.

Appealing the Decision

You have the right to appeal a proposed assessment of the Trust Fund Recovery Penalty. See Publication 5, *Your Appeal Rights and How to Prepare a Protest if You Don't Agree*.

Some property cannot be levied

By law, some property cannot be levied or seized. We may not levy any of your property unless we have determined that we expect there to be net proceeds to apply to the liability. In addition, we may not levy your property on the day you attend a collection interview in response to a summons.

Other items we may not levy include:

- School books and certain clothing,
- Fuel, provisions, furniture, and personal effects for a household totaling \$7,720,*
- Books and tools you use in your trade, business, or profession, totaling \$3,860,*
- Unemployment benefits,
- Undelivered mail,
- Certain annuity and pension benefits,
- Certain service-connected disability payments,
- Workers compensation,
- Salary, wages, or income included in a judgment for court-ordered child support payments,
- Certain public assistance payments, or
- A minimum weekly exemption for wages, salary, and other income.

Use Publication 1494, *Tables for Figuring Amount Exempt from Levy on Wages, Salary, and Other Income*—Forms 668-W(c) and 668-W(c)(DO), to determine the amount of earned income exempt from levy.

*These amounts are indexed annually for inflation (these amounts are for calendar year 2007).

Referral to a Private Collection Agency

To assist IRS in collecting unpaid taxes, the IRS has entered into contracts with Private Collection Agencies (PCAs). Your account may be assigned to a PCA for resolution. The PCA has been authorized by the IRS to assist you in making full payment of the amount you owe. If you are unable to pay the outstanding balance in full, the PCA may establish an installment agreement for you within IRS guidelines.

If your account is assigned to a PCA, the IRS will send you a letter with the PCA contact information. The PCA will also send you a letter. If you are contacted by one of these agencies, they will:

- assist you in resolving payment of your tax liability on behalf of the IRS,
- advise you of outstanding tax balances or unfiled tax returns, and
- provide you with assistance for resolution of these issues.

PCAs are not authorized to abate or adjust tax, penalty, or interest owed, enter into Offers in Compromise, or make other judgment decisions regarding your account. This includes the filing of federal tax liens, serving levies, or other actions described in this publication. However, the IRS still has the authority to take these types of actions to collect an overdue account.

Your privacy will be fully maintained. Confidentiality requirements and restrictions required by law will be strictly enforced. To protect your privacy, this means the PCA must verify your identity by asking for certain personal information before discussing your account. If unable to complete this verification, the PCA may refer your account to the IRS for further information or assistance necessary to verify your identity.

Please refer to Publication 4518, *What You Can Expect When the IRS Assigns Your Account to a Private Collection Agency*, for more information. If you do not wish to work with your assigned PCA to settle your overdue account, you must submit your request to that effect in writing to the PCA.

We offer you a number of free publications and forms

The IRS forms, notices, and publications mentioned in this document give you more information about the various situations discussed. For copies of these documents, call us at 1-800-TAX-FORM (1-800-829-3676), write to us, visit the IRS office, or visit our website at www.irs.gov. Additionally, your local library may have some of these publications and forms available.