

**From the desk of  
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# **Strategies in Dealing with IRS Collections**

Most taxpayers facing IRS asset seizures, garnishments, and other collection processes are the victims of their own behavior in that they mostly have avoided reality of their issues with the IRS.

The IRS is an extremely effective collection agency, although notoriously slow, but once it finally starts those collection activities can be, and usually are quite difficult to deal with.

Before the IRS can seize assets they must first send a final Notice of Intent to Levy.

That Notice is sent after a long series of letters announcing the IRS's intention to collect any back taxes, interest, and penalties.

The Final Notice of Intent to Levy is a very important document in that there are critical rights that attach to the receipt of this letter.

There are three different versions of the same letter and they all look very similar to each other.

## **Proper Notification by the IRS**

The first letter is a letter 1058, and it is titled final notice of intent to Levy, and provides the taxpayer notice of a right to a hearing.

The IRS sends letter 1058 to notify you of your rights, including the right to a hearing before they initiate seizure proceedings against a taxpayer's property, paychecks, bank accounts, state income tax refunds, and other tangible assets of the delinquent taxpayer.

The second letter is IRS letter CP 90, which notifies the delinquent taxpayer of the IRS intent to levy certain specific assets for the unpaid taxes.

That letter will also alert the taxpayer to the right of a Collection Due Process (CDP) hearing (one of the many confusing terms the IRS loves to utilize).

The third version of the letter is the most common version is an LT11 which demands immediate full payment, or instructs the taxpayer to enter into an installment agreement to avoid IRS enforcement action.

Prior to receiving one of the aforementioned letters the IRS sends by U.S. Mail a CP 501, CP503, CP504 (to name a few).

These are various versions of the collection letters the IRS sends to a delinquent taxpayer, but none are the final notice letter which will follow if these notices go unheeded.

These are the letters that most taxpayers who are in arrears as to their taxes tend to ignore, which is a huge mistake in that administratively it is far easier to obtain a payment program known as an Installment Agreement at this point than when the Notice of Levy is issued.

One major advantage of dealing with the IRS when these initial letters are issued is that the IRS will not have filed public liens which will impair one's credit, and the ability to secure outside lending to possibly solve the problem. Once the liens are filed, this becomes almost impossible other than through hard money lenders, if even that is possible.

**The IRS cannot Levy bank accounts, paychecks, or any assets until a Final Notice of Intent to Levy is issued**

Once a Notice of Levy is issued the taxpayer has 30 days to file a collection due process appeal (CDP).

The date to file an appeal needs some clarification – the 30 days runs from the date on the Notice of Intent, not from when the taxpayer receives it which is generally a week to ten days later than the letter date.

Unlike the filing of a tax return, the postmark date is not the legal effective date of an appeal.

The appeal must be received by the IRS within the thirty day period, not merely mailed to them by the 30<sup>th</sup> day.

**You cannot get an extension of the 30-day period of time on the final notice.**

That 30-day period of time to file has no exceptions, or extension.

Alternatively If the taxpayer requests an extension to pay with a reasonable payment plan, even if a structured payment plan is proposed, the Revenue Officer (RO) generally will be willing to consider that reasonable payment plan.

The importance of submitting a CDP is that by doing so immediately two things are accomplished, the most important of which is that it stops all collection activity immediately.

In effect it works like an injunction against the IRS from any further collection activity until such time that the hearing has occurred, which generally granted quite soon after the request has been made .

In essence filing a CDP takes the case out of the hands of the collection department temporarily, and places the matter into the hands of the Appeals Division.

In many instances more favorable terms, and or outcomes can be obtained with the Appeals Division as they are charged with looking into the fairness of the issues rather than the mandate of the Collections Division which is to collect the delinquent taxes.

The Appeals Division will give the taxpayer an opportunity to propose, for example, an installment agreement, offer compromise, or perhaps uncollectible status, or perhaps getting some of the penalties abated which is within the realm of an Appeals Officer, but not the Revenue Officer (RO) as their realm is strictly to collect taxes, penalties, and interest. An RO has no latitude, or authority to mitigate, waive, or abate any amount of taxes, interest, or penalties whereas an Appeals Officer has that authority to do so.

The other, and sometimes most important aspect of filing a CDP when filed timely, the taxpayer now establishes the right to a Tax Court Appeal.

If an agreement cannot be reached at the Appeals level, the taxpayer then has the right to take the matter to Tax Court.

These steps and procedures might be a sufficient tactic to stall the collection process long enough to establish a reasonable structured payment plan.

### **What if you missed the 30-day deadline?**

There exists a second appeal procedure called an Equivalent Hearing.

An Equivalent Hearing can be filed within one year of the final notice date.

This then directs the case with the IRS to the appeals office where there is an opportunity to meet with an appeals officer.

The difference here is that decisions by the appeals officer are final in Equivalent Hearing cases, and not subject to Judicial Review.

This is a very important limitation however in that the IRS will stop collection activities while the Equivalent Hearing is pending.

This gives the delinquent taxpayer an opportunity to make a proposal to the appeals officer without the impact of levies or asset seizures.

## Payment Procedures

Depending on the amount owed to the IRS, a taxpayer generally will be required to provide a full financial statement with the application for an installment agreement which is done with the various versions of IRS form 433.

If the amount owed by the taxpayer is less than \$50,000, the IRS provides 72 months to pay the outstanding taxes in full, and generally there is no need to provide and financial information.

This is known as the Streamlined Installment Program. Almost every taxpayer qualifies for this program.

For amounts owing greater than \$100,000, the IRS has recently changed the payment period to 84 months.

To qualify for this payment program the taxpayer is required to provide the IRS a complete financial disclosure with substantiation of all assets, income, and liabilities.

The IRS Collections Division will evaluate the financial disclosures, and determine what monthly payment they will accept without further collection sanctions.

It is worth noting that if the balance is paid down to \$100,000, generally no financials will be required.

A common strategy in this instance is to establish an installment agreement, and set the first payment date for as long as is possible in the future, generally 59 days.

Doing so will stop any collection activity such as a wage garnishment or bank levy, and provide time to evaluate an overall strategy that may include filing an offer in compromise, or possibly bankruptcy.

Finally, this is not an arena one should attempt on one's own as it is complicated, with many rights, and alternatives that a taxpayer will not be knowledgeable of, and extremely one sided if you are facing an IRS Revenue Officer.

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