Don't Be Intimidated By The IRS: You Have Rights That Limit The IRS From Collecting Past Due Taxes

By Attorney Tony Ramos

Even if you owe taxes, the IRS is limited in what they can do to collect them from you.

The Internal Revenue Code limits the power of the IRS Collection Division to collect taxes, including their right to take your money and other assets for payment.

Don't expect an IRS Collections employee to explain these rights to you. These IRS agents represent the IRS and are not your attorney. Also, their job is to collect taxes and they will not properly advise you of your rights.

You should know your rights granted to you by the Internal Revenue Code. Here are a number of important rights that you have.

1. **Proper notice before seizure**. Before the IRS can seize your bank account, garnish your wages, or take other property of yours, the IRS must properly notify you of their intent to seize your property and also include notice of your right to appeal this proposed levy. This right is granted under Internal Revenue Code (IRC) sections 6330 and 6331(d).

The notice the IRS must send is called a Final Notice of Intent To Levy. It is either Form LT11 or L1058 (or other notices). This notice must contain a 30 day notice before the IRS can actually levy (seize) your assets.

Additionally the notice must tell you that you have 30 days to file an appeal to dispute the IRS' right to levy, stop this collection activity, and give you a hearing with an IRS appeals officer. This appeal is filed in order to settle on an alternative solution other than the threatened seizure of property. If you lose this appeal then you have the right to go to the US Tax Court for additional review.

This entire procedure is known as a collection due process appeal. During this entire process the IRS has to stop enforcement activity until resolution.

2. **Only 10 years to collect**. According to IRS section 6502, the IRS only has 10 years to collect your unpaid tax debt. After this period expires, the debt is uncollectible.

After 10 years from when you start owing your tax debt (the "assessment" date), the IRS must reduce the applicable tax debt account debt balance to zero. In IRS terminology this 10 year expiration date is known as the collection statute expiration date, or CSED. There are times when the 10 year period for collection is extended such as when you file for bankruptcy or file an Offer-in-Compromise with the IRS. It is also extended if you outside of the U.S. for more than six months at one time. A knowledgeable tax debt collection attorney can find if your 10 year period has been extended.

3. **No seizure unless it yields money to the IRS**. According to IRS sections 6331(f) and 6331(j)(2)(c), the IRS cannot take your property unless it results in a recovery of money to them.

In other words, the IRS cannot just seize your property to punish or intimidate you. Their collection action has to be justified by money being generated from the activity. This is known as the **no equity rule**.

An example of this rule is that if you own a car worth $7,500 but you owe the bank almost that amount against it, when the IRS seizes your car, the only one to get paid will be the bank. The IRS won't get anything from having seized your car. Because of this no equity rule, the IRS is prevented from taking your car or any other asset such as your home.

It is also IRS practice to give your car, or other asset, a quick sale value which is typically 80% of its fair market value. This also reduces the probability of money being generated to pay your tax debt. In the example above, the $7,500 value will be reduced by 20% ($1,500) resulting in a quick sale value of $6,000.00. So even if there is some equity without the 20% reduction, the IRS will normally not try to seize this asset.

4. **Most of your personal belongings are safe**. Thanks to IRS section 6334(a), it is very unlikely that the IRS will seize your personal belongings, household goods, furniture, and clothing.

This section of the Internal Revenue Code exempts from levy certain personal assets by category and/or amount. You have the right to keep your necessary belongings such that an IRS seizure will leave you with no clothing, furniture, or household goods. This is a common fear that taxpayers have but they have rights to make sure this never happens.

5. **Sometimes you can pay less that what you owe**. You have the right to submit an Offer-in Compromise (IRC Section 7122) or a Partial Payment Installment Agreement (IRS section 6159(a)) both of which do not pay the full amount of your tax debt.

The law prohibits the IRS from automatically rejecting an Offer-in-Compromise or a Partial Payment Installment Agreement simply on the basis that less than the full amount of tax debt will be paid to the IRS. Each of these options has requirements not discussed in this report. Consult with a knowledgeable attorney for these requirements.

An accepted Offer-in-Compromise settles your tax debt for less than the full amount owed. To be accepted the IRS must be persuaded that they will never collect the full amount owed from you before expiration of the 10 year period the IRS has to collect the debt. You have to offer amount equal to the net value of non-exempt assets and income after allowed living expenses for either a12 month or 24 month period. If you elect the 12 month period you have to pay off the total offered amount within 5 months. If you need more time to pay, you can do so over 24 months but need to pay the net value of non-exempt assets plus 24 months of income after allowed expenses.

Partial payment installment agreements allow you to pay the IRS in payments of what you can afford. Payments will not run beyond the expiration of the 10 years that the IRS has to collect the debt even if the tax debt does not get paid in full.

6. **Your home has special protections from seizure**. The Internal Revenue Code in section 6334(e) makes it difficult for the IRS to take your home.

To take your home, the IRS must first file a foreclosure lawsuit. An independent District Court judge must approve the levy (sale) of your residence to pay your tax debt. In other words you will have notice of this judicial proceeding and can assert your defenses to this proposed levy.

Another protection is that seizure of your home is an extremely low priority for the IRS in collecting tax debt. This is so low a priority that only about a combined total of 500 pieces of real and personal property in an entire year are seized by the IRS. Over 14 million taxpayers owe the IRS at any given time so you can see how low the chances are that you will lose your home for IRS tax debt.

7. **The IRS must sometimes release levies**. Once you enter into a payment plan or demonstrate economic hardship due to the levy, IRS section 6343 orders the IRS to release the levy.

If you can reach an agreement with the IRS on an Installment Agreement, the IRS is required to release any pending levies against your wages or accounts.

Also, even if you cannot afford to make monthly payments, if you can demonstrate to the IRS that the levy is causing an economic hardship so that you can't pay necessary living expenses, like rent, utilities, car payment, or medical bills, the IRS has to release the levy to alleviate the hardship it is causing you.

There are other instances that can make the IRS release levies such as paying the IRS in full, filing for an Offer-in-Compromise, and the expiration of the 10 year collection period. Consult with a knowledgeable IRS tax debt attorney for the requirements on these other alternative to stop IRS levies.

8. **You have the right to appeal an IRS decision**. Most IRS decisions are subject to administrative appeal and review by an independent IRS settlement officer:

For example, Internal Revenue Code 7122(e) gives you the right to appeal any proposed rejection of an offer in compromise.

In addition to appealing tax return examinations and additional tax assessments which result from audits, taxpayers can appeal IRS collection actions such as filing liens and threatening levies. Taxpayers can also appeal the IRS terminating Installment Agreements, rejecting Offers-in-Compromise and other decisions of the IRS. Consult with a knowledgeable IRS tax debt resolution attorney for more information on your right to appeal IRS decisions.

Summary

Just because you owe past due taxes to the IRS, and you know that the IRS has very powerful collection powers, understand that you also have rights granted to you by the Internal Revenue Code. The IRS does not have unlimited powers and you can limit their often drastic collection tactics by asserting your rights granted by law.

Remember this is not legal advice but a general description of your right from IRS collection powers to satisfy tax debt. Seek the counsel of a competent tax resolution attorney for your specific case.

You can get more information from attorney Tony Ramos at The Law Office of Tony Ramos PC at his website TonyRamosLaw.com.

Contact Tony Today! Call 1-210-558-2834 or by email at: tonyramos@tramoslaw.com. Tony Ramos lives in San Antonio, Texas.