TRI Tax Resolution Institute

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Assistance for Taxpayers Who are Unable to Afford Representation or Owe Too Little to Pay for Representation

While it would be ideal if we could resolve everyone's tax issues, the fact is there are some instances in which delinquent taxpayers owe more than they can afford to pay but the amount owed is too low to warrant paying for representation services. In other instances, delinquent taxpayers will owe a substantial amount in back taxes but do not have the ability to pay a representative to resolve their tax matters.

It is always the "Right" choice to retain a qualified representative to assist you in resolving your tax concerns; and for this reason we recommend you consult us prior to making a determination as to whether you need or can afford help.

If you fall into either of the two above-mentioned categories, it is important for you to realize that the inability to pay for representation or having a liability too low to warrant representation does not preclude you from needing to take action.

Below you will find some basic guidelines to assist you if you are unable to pay for tax representation services or your liability is too low:

File all of your tax returns

Whether or not you can afford to pay your tax liability, you are better off filing your tax returns timely. If you fail to file your Federal income tax return in a timely manner, you will be charged an additional 5% of the overall liability per month for the first 5 months after the taxes are due. This equates to paying an additional 25% above the original tax liability plus other less significant penalties and interest on both the tax and penalties.

You may ask "Why should I file if I cannot afford to pay?" Aside from the additional liability that continues to accrue by not having filed all of your returns, you are not in compliance. By definition, compliance requires that all tax returns, current and past be filed and that the taxpayer has paid current tax estimates and/or liabilities, and will continue to do so going forward. The IRS and most State taxing agencies will not negotiate with a taxpayer that is not in compliance.

It is easier to pay someone to prepare and file a tax return each year rather than paying someone a much larger sum of money to prepare tax returns for multiple years all at one time. In the latter, the taxpayer is usually scrambling to gather information that is now several years old and to add additional stress, many taxpayers are required to prepare and file returns while their funds which were most likely limited to begin with, are now tied up due to a bank levy or wage garnishment. If you missed the boat to file your tax returns timely, file them as soon as possible.

Make sure you hire a qualified professional to prepare your tax returns. If you cut corners by hiring someone that is unqualified or attempt to prepare the returns yourself, you risk foregoing substantial tax savings that may far outweigh the amount you save by having the returns prepared by someone unqualified.

Offices:

Los Angeles:

21700 Oxnard Street
Suite 1160
Woodland Hills, CA 91367

New York:

303 5th Avenue, Suite 909
New York, NY 10016

San Diego:

11512 El Camino Real
Suite 311
San Diego, CA 92130

Orange County:

1421 N. Wanda Road
Suite 140
Orange, CA 92867

Contact the Taxing Agency before they contact you

Whether you owe the IRS or your local State taxing agency, it makes sense to make contact sooner than later. Aside from the stress of not knowing what they expect from you, you face the threat of collection activity. Once a taxpayer becomes delinquent, they will receive several notices increasing in degree of seriousness.

If the taxpayer continues to ignore these notices, they will surely encounter one of two types of collection. The first is **passive collection** which includes having a lien filed against them, typically within the county in which they live. In this instance there is no inherent "call to action".

The taxpayer either owns real property to which a lien will attach, or the taxpayer owns no real property and the lien will continue to exist but causes little to no burden. In either case, a lien will not affect the day-to-day finances of the taxpayer. This may be quite different if the taxpayer is trying to purchase or sell real property, or if the taxpayer is trying to purchase personal property for which a credit report must be furnished. Typically the taxpayer has additional time to address their tax concerns when only faced with the threat of passive collection.

Active collection on the other hand is a different story. If a taxpayer is facing active collection, they may be subject to having all of the funds in their bank accounts frozen, having their wages garnished (reduced) to amount equivalent to earning minimum wage, or having the vendors that would usually pay them, now be required to pay the IRS or State instead. Active collection is practiced to "wake up" the taxpayer. If someone owing tax initially ignores delinquent notices, they basically have two choices. The first is to "fall off the grid" and bury their head in the sand, and the second is to "fess up" by contacting the government and get into compliance so that they may reach an agreement amenable to both parties.

It makes sense to contact the government prior to the commencement of collection activity rather than to wait until one is being actively collected upon. As arduous as it may be to address one's tax concerns in general, it becomes exponentially worse when under a time constraint or with one's funds frozen up or even worse…taken.

Enter into an Installment Agreement

There are several avenues one may take to resolve their tax matters. Most of them are extremely complex and it is near-impossible to reach one's desired outcome without having years of experience in practicing tax resolution.

The best chance for a lay-person to reach a reasonable result is to request an installment agreement. Keep in mind that requesting and being granted an installment agreement in and of itself is not that difficult. Many CPA's enter their clients into installment agreements and think they have become experts in tax resolution. Someone skilled in this arena will enter their client into an agreement that they can afford to pay over the life of the collection statute which for the IRS is 10 years from the date of filing.

With the IRS and most other taxing agencies, you are expected to pay based upon not how much you owe but rather your ability to pay. If you can full-pay over a given period of time, you will probably be able to resolve your tax matters without much resistance. However, if you cannot afford to pay the entire liability within a given period of time or even an extended period of time, you must claim hardship.

To claim hardship you must show that your monthly disposable income is less than the amount that would be required to full-pay your liability over the given number of months.

Here is the formula used by the IRS to determine personal monthly disposable income:

Income	**-**	***Expenses***	**=**	***MDI***
(Monthly Net)		***(Necessary and Reasonable)***		***Monthly Disposable Income***

Examples

Wages	***Rent/Mortgage***
Net Business Income	***Utilities***
Rental Income	***Auto Payments***
	Auto Maintenance
	Food/Clothing/Misc.
	Health Insurance premiums
	Out of Pocket Medical Costs
	Term Life Insurance premiums

The key is to show that your MDI is as low as possible. Better to be required to pay a low monthly amount and pay more if desired, than to be required to pay a higher monthly sum that one cannot continue to pay consistently. The issue lies in making sure that the numbers you include in the forms (typically 433A, 433B or 433F – see www.irs.gov) are both accurate and allowable.

You can diminish the result you receive by providing inaccurate information. For example, if you receive a paycheck and get paid every two weeks you must calculate your income by taking the amount you take home for each check, multiply it by 26 and then divide it by 12 to get your average net monthly income. Most people will just double the amount they take home and call it the monthly amount. By doing so you underestimate your monthly net income and will therefore have higher MDI than you indicate.

Keep in mind that just because you have an expense, does not mean it will be allowed by IRS. For instance, the IRS provides National and Local Standards for items such as housing, food, clothing and car payments. If you exceed the standard amount, the difference may be disallowed. In addition, the IRS claims they allow credit card payments but their "allowance" does not carry much leverage for the taxpayer. They allow credit card payments under the "Food/Clothing/Misc." category. The amount they allow will barely cover food let alone clothing and other items. Therefore, it is important that the taxpayer not assume that large credit card payments will offset their income.

As stated at the beginning of this section, it is always the "Right" choice to hire a qualified tax professional to represent you in resolution matters. Only if you are unable to pay for representation services or have a problem that falls below the threshold where it makes sense to hire someone, should you consider taking matters into your own hands. **Keep in mind that it takes several years of experience and training to be able to master the practice of tax resolution.**