

How long does the IRS have to collect taxes owed?

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The answer is, generally, 10 years from the date the tax is assessed. For taxes assessed prior to 6 November 1990, this period was 6 years. However, if the tax was assessed prior to 6 November 1990 and the six year limitations period did not expire before that date, the ten year period applies. See Foutz v. United States, 860 F. Supp. 788 (D. Utah 1994).

When is the tax considered assessed? The tax is considered assessed once the assessment list containing the tax is signed by the appropriate IRS official. IRC §6203; Treasury Regulations §301.6203-1. Even if you may think that the bell has rung and you are home free because ten years has passed since the tax was assessed, you must consider if any of the many instances that toll the 10 year period have occurred. There are many. For instance, if the return is considered a fraudulent return or filed with intent to evade taxes (false return). In that instance, it is considered that an assessment of the tax (sought to be avoided) has not been made. MICHAEL I. SALTZMAN, IRS PRACTICE AND PROCEDURE, §5.07[1] (2nd ed. 2002). So in effect there is no limitation period in that instance. Id. Another instance that will toll the period is if there is an offer in compromise made. Another is if an appeal of the IRS's assessment occurs. IRC § 6503(a)(1). The time a taxpayer's assets are in custody of a court is another. IRC § 6503(b). The situation of a taxpayer being outside the US for a continuous period of at least six months is on the list. IRC § 6503(c). Keep in mind voluntary agreement may also toll the limitations period. In addition, the IRS can commence a collection action in court prior to the expiration of the limitations period, which will allow for more time. There are many more instances that can toll the limitations period, and there are more details to even those mentioned above. So, obtain an opinion about your specific circumstances with all pertinent facts being considered to be more certain about whether the statute of limitations has expired.

Keep in mind, the collection of a tax is post-assessment. Collection is not to be confused with how long the IRS has to assess a tax once a return is filed. The answer to that is 3 years. IRC §6501(a); Treasury Regulations 301.6501(a)-1(a).

Overall, if you are trying to calculate when the statute of limitations has expired, it is tricky business. We encourage you to obtain an opinion from a qualified tax or business attorney before taking action.

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Statute of limitation for taxes/how long does the IRS have to collect a tax/tax assessment date.