ALERTS AND UPDATES

IRS Expands Options for Taxpayers Faced with Collection Enforcement Activities

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In what may be considered a refreshing action, the Internal Revenue Service (IRS) recently announced a new series of procedures to assist struggling taxpayers with resolving their outstanding tax liabilities. The changes focus on the procedures used by the IRS in filing liens, and include:

- Reducing the number of liens issued, by instituting significant increases in the dollar threshold for which liens are generally issued;
- Simplifying the process for obtaining lien withdrawals once a taxpayer has satisfied the liability for which the lien was placed;
- Withdrawing liens in most cases where a taxpayer enters into a direct debit installment agreement to satisfy the outstanding tax liability;
- Creating easier access to installment agreements for more-struggling small businesses; and
- Expanding a streamlined offer-in-compromise program to cover more taxpayers.

These options are in addition to relief offered by the IRS in 2008 to struggling taxpayers seeking to refinance and sell their homes, followed in 2009 by additional flexibility for taxpayers facing collection action.

Tax Lien Thresholds and Lien Withdrawals

The IRS currently files liens on an automatic basis at certain levels of tax liability for all taxpayers with past-due balances. Now, the levels of tax liability for automatic lien action will be significantly increased, enabling a larger number of taxpayers to escape an automatic lien and thereby providing increased options for negotiating settlement of past-due tax liabilities. The threshold has been increased from $5,000 to $10,000. Liens will be withdrawn for taxpayers who owe less than $25,000 and who enter into an installment agreement, with a direct debit option, to settle their outstanding tax liabilities. Interest and penalties will continue to accrue on outstanding balances. Additionally, small businesses can have liens withdrawn if they have outstanding tax liabilities of less than $25,000 (up from $10,000) and enter into a direct payment installment agreement. Small businesses will have up to 24 months to pay their outstanding liabilities.

In addition to the $25,000 or less requirement, the IRS will also authorize lien withdrawals for taxpayers currently paying their outstanding tax liabilities under an existing installment agreement who convert that agreement to a direct debit installment agreement. Taxpayers already under a direct debit installment agreement can request an existing lien to be withdrawn. The IRS also intends to streamline the withdrawal process by giving collection personnel the authority to withdraw liens. Previously, IRS collection personnel did not have this authority.

Offers in Compromise

The IRS will offer assistance to struggling taxpayers by expanding the existing offer-in-compromise (OIC) program. The OIC program permits qualified taxpayers with outstanding and unpaid tax liabilities to negotiate a full settlement for an amount that is less than the amount owed. Taxpayers will be eligible to participate in the OIC program if they have tax liabilities of less than $50,000 (increased from $25,000) and have annual incomes not exceeding $100,000. Taxpayers with tax liabilities and incomes in excess of $50,000 and $100,000, respectively, continue to be eligible to participate in the program; however, the IRS will likely review the financial data of these taxpayers in more depth.

An OIC agreement generally will not be accepted by the IRS if it believes that the outstanding liability can be paid through a lump sum or other type of payment arrangement. The IRS typically reviews, in great detail, the taxpayers' income, expenses, assets and liabilities to make a determination regarding the taxpayers' ability to pay. As part of the new IRS procedures to assist struggling taxpayers—provided the above tax-liability and income thresholds are met—the IRS will accept a taxpayers' financial data as presented without an in-depth review. In a release dated May 13, the IRS stated it will give greater consideration to financial information provided verbally during offer negotiations in an effort to ease taxpayer burden.

These new procedures represent fundamental changes to the IRS system of collecting outstanding tax liabilities, reflecting what the IRS believes may be a more-responsible approach for the U.S. tax system, as well as an aid to taxpayers continuing to face challenging economic conditions.

Apart from these changes, there may be negative implications of filing an OIC—the potentially greatest of them is providing the IRS a financial road map for seizure and enforced collection action in the event the offer is rejected, withdrawn or the taxpayer defaults on the offer. Additionally, submission of an OIC will automatically extend the statute of limitations for collection during the pendency of the offer, plus one year.

It may be worthwhile for taxpayers who are experiencing financial hardship and who are unable to pay their current tax obligations to consider consulting a qualified tax professional to potentially avoid or minimize interest and penalty assessments, as well as IRS collection, enforcement and seizure activity.

For Further Information

If you have any questions regarding this *Alert*, or for further information, please contact Steven M. Packer, manager in the Tax Accounting Group, or the practitioner with whom you are regularly in contact.