The IRS Can't Collect If You're Bankrupt!

Most people fall on financial hard times, regardless of the causes. Though they may need to pay significant sums of cash to creditors, the IRS may also think that they, too, should be paid on tax debts. The IRS can be very ruthless, unlike other bill collectors. The IRS can definitely wreck a taxpayer's life if they want to continue certain collection actions. What many people don't know is that filing for bankruptcy may enable them a degree of protection from some of the worst techniques used by the IRS in their debt collection methods.

Bankruptcy is generally misunderstood by taxpayers. It is viewed as an easy way to escape from debts. This is not true. Bankruptcy was first created as a method that allows people to seek legal debt relief, and that includes tax debt relief. There's a significant chance that your tax debts, along with your regular debts, can be cancelled if you file for Chapter 7 bankruptcy. This can occur, but there's of course no guarantee that your tax debt will be included. For anyone filing a Chapter 11, 12, or 13 bankruptcy, they'll be provided the opportunity to move the IRS into settling for an installment plan and settle their IRS issue.

When you file for bankruptcy, you get legal protection which is usually known as the 'automatic stay'. The IRS and all of your creditors must cease all actions against you as soon as you've filed for bankruptcy. Applying to the bankruptcy court is the only way that any of your collectors can bypass the automatic stay while your bankruptcy is still in the process of being discharged or dismissed. Although the IRS is a government office, judges rarely lift the automatic stay. Normally, in order for that to happen, the IRS is liable for proving that some form of fraud is being conducted by the taxpayer who's filing for bankruptcy. You have more serious IRS issues on your hand if you're conducting fraud.

But one of the negative aspects of filing for bankruptcy is that it definitely prolongs the statute of limitations on any tax debt. Basically, the 'clock' freezes until the bankruptcy is either discharged or dismissed. The clock ticks on from that point forward if it is dismissed.

When certain conditions such as the three-year rule are satisfied, tax debts are potentially effectively cancelled with a Chapter 7 bankruptcy claim. All tax debts considered are no less than 3 years old, beginning from April 15 of the year it was filed, as stated in the three-year rule. Extensions are also included.

Taxes filed two years before bankruptcy is included in the two-year rule. Another rule is the 240-day rule, applied to taxes assessed 240 days before bankruptcy filing.

However, even if a Chapter 7 bankruptcy is filed, loopholes still allow the IRS to collect. If the IRS recorded a tax lien before the bankruptcy was filed, then, even after filing, the IRS still has first right to any property that the taxpayer owned at the time of filing for bankruptcy. The other forms of bankruptcy, Chapter 11, 12 and 13, are generally re-organization bankruptcies, and their primary benefit is to buy time to Settle a tax debt and settle their IRS problem.

Darrin T. Mish is a Nationally recognized Attorney whose practice focuses on representing clients across the United States with IRS Problems. He is AV rated by Martindale-Hubbel and is a member of the American Society of IRS Problem Solvers and the Tax Freedom Institute. He has been honored by a listing in Martindale-Hubbel's Bar Register of Preeminent Lawyers. His passion is providing IRS help to taxpayers with both individual and payroll tax problems. He also spends a great deal of time traveling the nation providing training to attorneys, CPAs and Enrolled Agents on how to handle their toughest cases with the IRS. If you would like more information about his services please visit http://getirshelp.com.