

Tax Tips

Non-filers

If anyone you know has failed to file tax returns when due, it's important that they be aware of the ways to resolve such a problem. Many non-filers missed a year for one reason or another, and now are afraid to re-enter the tax system. But in fact, taxpayers who file overdue returns on their own are often treated reasonably well, much better than those who are caught.

For taxpayers who can't pay their entire tax bill at once, there's an installment payment option. IRS will also consider an offer-in-compromise on any of the following grounds: (1) where a taxpayer is unable to pay the tax, (2) where there is doubt as to the taxpayer's liability for the tax, (3) where collection of the full amount would cause economic hardship for the taxpayer, or (4) where compelling public policy or equity considerations exist that provide a sufficient basis for compromise.

An offer to compromise hasn't been rejected until IRS issues a written notice to the taxpayer or his representative, advising of the rejection, the reason(s) for the rejection, and the taxpayer's right to an appeal of the rejection. IRS can't notify a taxpayer or taxpayer's representative of the rejection of an offer to compromise until an independent administrative review of the proposed rejection is completed. The taxpayer may administratively appeal a rejection of an offer to compromise to the IRS Office of Appeals if, within the 30-day period commencing the day after the date on the letter of rejection, the taxpayer requests such an administrative review in the manner provided by IRS. A streamlined offer-in-compromise program is available for taxpayers with annual incomes up to \$100,000. In addition, participants must have tax liability of less than \$50,000.

IRS has an independent procedure to review its own proposed rejection of requests for an installment agreement. This internal IRS review must occur before IRS notifies the taxpayer of actual rejection of the installment agreement request. IRS also has a procedure to allow taxpayers to appeal—to the IRS Office of Appeals—IRS's rejection of any request for an installment agreement.

A \$5,000 penalty applies to any person who submits an application for a compromise or an installment agreement if any portion of the submission is either based on a position which IRS has identified as frivolous, or reflects a desire to delay or impede the administration of federal tax laws. However, this penalty is clearly aimed at those who abuse the process and should not deter taxpayers with legitimate applications from using the compromise or installment agreement processes.

Once a return is filed, generally, the IRS has three years in which to audit it. After that, the return is final. If no return is filed, there's no statute of limitations. IRS can come after the taxpayer at any time, even many years later.

Some non-filers are actually entitled to refunds. A return claiming a refund can be filed at any time, but only the tax paid within the three years before the return was filed can be recovered. Tax withheld during a calendar year is considered paid on April 15 of the next year. Estimated tax is considered paid on the return due date, which is generally also April 15. Thus, a return filed more than three years late will likely be fruitless as a refund claim.

If you have any questions concerning this matter, please do not hesitate to call me at (562) 698-9891.

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