
IRS Mission:

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

What You Should Know About

The IRS Collection Process

Keep this publication for future reference

Publication 594

If our records show that you owe us, we usually send this publication with your final bill. If you owe the tax shown on the bill we sent to you, please arrange to pay it immediately. If you believe the bill is incorrect, call us now so that we may correct the mistake. We urge you to settle your tax account now so that we don't have to take any further action to collect the taxes you owe.

This publication tells you the steps the Internal Revenue Service (IRS) may take to collect overdue taxes. **This publication includes a summary of your rights and responsibilities concerning paying your federal taxes.**

Inside you will find a number of titles of IRS forms and publications that apply to the various situations discussed. For a complete list of these documents, see page 12. For copies of these documents, please call us, write to us, visit your local library or IRS office, or contact us at our web site. See the next page for the phone numbers and addresses that you'll need. Please contact us right away; we will work with you to solve your tax problem.

Please note that the information in this document applies to all taxpayers — for example, individuals who owe income tax and employers who owe employment tax. At the end of this publication, we've included a separate section for special rules that apply to employers only.

This document is for information only. Although it discusses the legal authority that allows the IRS to collect taxes, it is not a precise and technical analysis of the law.



Department of the Treasury
Internal Revenue Service

www.irs.gov

Publication 594 (Rev. 5-2002)
Catalog Number 46596B

en español

Existe una versión de esta publicación en español, la Publicación 594SP, que puede obtener en la oficina local del Servicio de Impuestos Internos.

What's inside. . .

Important Information You Should Know 3

- If you disagree with our decisions 4
- If you want someone to represent you 4
- Other items to note 4

What to Do When You Owe Taxes 5

- Pay your taxes — or tell us why you can't 5
- If you cannot pay all that you owe now,
there's still something you can do 5
- Set up an installment agreement 6
- Apply for an Offer in Compromise 6
- Temporarily delay the collection process 6

About IRS Collection Actions 7

Liens 7

- Releasing a lien 7
- Payoff amount 7
- Applying for a discharge of a lien 8
- Making the IRS lien secondary 8
- Withdrawing liens 8
- Appealing the filing of a lien 8

Levies 8

- Levying your wages or your bank account 9
- Filing a claim for reimbursement 9
- Levying your federal payments 9
- Releasing a levy 9
- Releasing your property 9
- Returning levied property 10
- Selling your property 10
- Redeeming your real estate 10

Employment Taxes for Employers 11

- Assessing the trust fund recovery penalty 11
- Figuring the penalty amount 12
- Appealing the decision 12

□ Boxed highlights

- What if you believe your bill is wrong? 4
- There is a special program to help you
with tax problems that cannot be resolved 5
- Some property cannot be levied or seized 10
- Especially for employers 11
- We offer you a number of free publications
and forms 12

? Do you have questions or need help right away? Call us. We're here to help you.



For tax information and help:

Call the number on the bill you received or call us toll free at:

1-800-829-1040
1-800-829-4059 / TDD



For tax forms and publications:

1-800-829-3676
1-800-829-4059 / TDD



Internet: www.irs.gov

FTP — ftp.irs.ustreas.gov
Telnet — iris.irs.ustreas.gov

You'll find answers to frequently asked tax questions, tax forms online, publications, hot tax issues and news, and help through e-mail.



If you prefer to write to us. . .

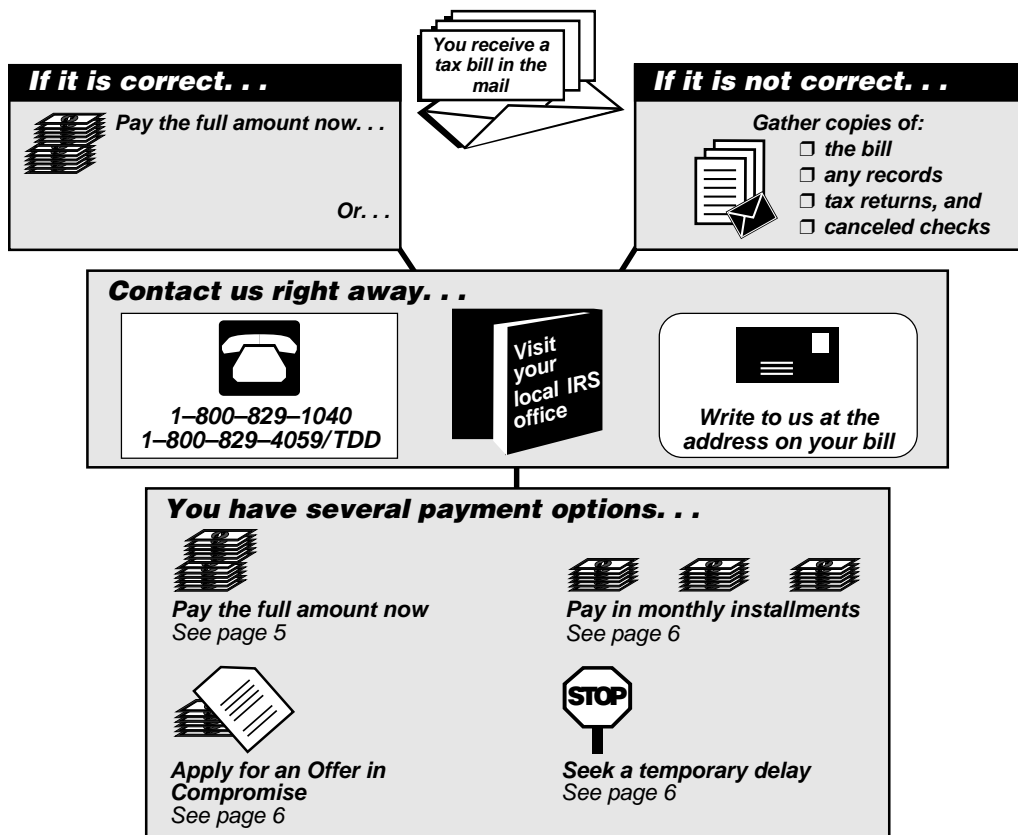
Enclose a copy of your tax bill. If you do not have a copy of your bill, print your name, social security number or taxpayer identification number, and the tax form and period shown on your bill. Write to us at the address shown on your tax bill.



You can also visit your nearest IRS office.

You'll find the exact address in your local phone book under U.S. Government.

What to Do When You Receive a Bill from the IRS



Avoid Having Overdue Taxes Next Year

- ◆ If you owe taxes because you did not have enough money withheld from your wages, you should claim a lower number of withholding allowances on your W-4 form. See Publication 919, *Is My Withholding Correct?*
- ◆ If you are self-employed and owe tax, increase your estimated tax payments. See Publication 505, *Tax Withholding and Estimated Tax*.
- ◆ If you are an employer, see Publication 15, *Circular E, Employer's Tax Guide*.

Important Information You Should Know

You have the right to be treated professionally, fairly, promptly, and courteously by IRS employees. Among other things, you have the right to:

- ◆ disagree with your tax bill,
- ◆ meet with an IRS manager if you disagree with the IRS employee who handles your tax case,
- ◆ appeal most IRS collection actions,
- ◆ transfer your case to a different IRS office if you have a valid reason,
- ◆ be represented by someone when dealing with IRS matters, and
- ◆ receive a receipt for any payment you make.

For details about your rights, see Publication 1, *Your Rights as a Taxpayer*. You received a copy of it with your first bill.

If you disagree with our decisions. . .

Fast Track Mediation Process

If you disagree with any or all of the IRS findings, you may request the Fast Track Mediation services to help you resolve disputes resulting from collection or examination. The Fast Track Mediation offers an expedited process with a trained mediator, who will help facilitate communication, in a neutral setting. The mediator will work within the law to resolve the issues, but does not have the authority to require either party to accept the resolution.

Most cases qualify for the Fast Track Mediation. To begin the process, you may request the IRS representative to arrange a mediation meeting. Both you and the IRS representative must sign a simple agreement to mediate form. The IRS representative will send the signed agreement to the local Appeals Office, which will assign a mediator. Generally, within a week, the mediator will contact you and the IRS representative to schedule a meeting. The mediator will give you a brief explanation of the Fast Track Mediation process and set up a mutually agreeable time and place to hold your mediation session.

For additional information, refer to Publication 3605, *Fast Track Mediation — A Process for Prompt Resolution of Tax Issues*.

If any issues remain unresolved, or if you decide not to use the Fast Track Mediation process, you still have the right to use the normal appeal process.

Appeal Process

If you disagree with the decision of an IRS employee at any time during the collection process, you can ask that employee's manager to review your case.

When you ask for a review, the employee will refer you to a manager. The manager will either speak with you then or will return your call by the next work day.

If you disagree with the manager's decision, you have the right to file an appeal under the Collection Appeals Program. This program enables you to appeal most collection actions we may take, including filing a lien, placing a levy on your wages or bank account, or seizing your property. You also will have an opportunity to request a Collection Due Process (CDP) hearing with the Office of Appeals after the initial filing of a Notice of Federal Tax Lien. This opportunity takes place prior to the initial levy action, unless collection of the tax is in jeopardy or the levy is on your state tax refund. In these two cases, you can ask for a CDP hearing after the levy. See Publication 1660, *Collection Appeal Rights* for more information.

If you want someone to represent you. . .

When dealing with the IRS, you may choose to represent yourself, or you may have an attorney, a certified public accountant, an enrolled agent, or any person enrolled to practice before the IRS represent you. For example, you may want your tax preparer to respond to a tax bill that you believe is incorrect.

If your representative appears without you, he or she must file a Form 2848, *Power of Attorney and Declaration of Representative*, or Form 8821, *Tax Information Authorization*, before being allowed to receive or inspect confidential material.

Other items to note. . .

- ▶ ***The IRS can share your tax information*** — By law, the IRS can share your tax information with city and state tax agencies and, in some cases, with the Department of Justice, other federal agencies, and people you authorize. We can also share it with certain foreign governments under tax treaty provisions.
- ▶ ***We may contact a third party*** — The law allows us to contact someone else, such as neighbors, banks, employers, or employees, to investigate your case.
- ▶ ***If you are involved in bankruptcy proceedings*** — Contact your local IRS office. While the proceeding may not eliminate your tax debt, it may temporarily stop IRS enforcement action from collecting a debt related to the bankruptcy.
- ▶ ***Help for an innocent spouse*** — In some cases, you may not be responsible for taxes, interest, and penalties on a joint income tax return. Contact your local IRS office for more information. For information about your rights as an innocent spouse, see Publication 971, *Innocent Spouse Relief*. For information on three ways to get help with the amount you owe, see Form 8857, *Request for Innocent Spouse Relief (And Separation of Liability and Equitable Relief)*.

What if you believe your bill is wrong?

If you believe your bill is wrong, let us know as soon as possible. Call the number on your bill, write to the IRS office that sent you the bill, call 1-800-829-1040, or visit your local IRS office, if you prefer.

To help us correct the problem, gather a copy of the bill along with copies of any records, tax returns, and canceled checks, etc., that will help us understand why you believe your bill is wrong.

If you write to us, tell us why you believe your bill is wrong. With your letter, include copies of all the documents you gathered to explain your case. Please do not send original documents. If we find you are correct, we will adjust your account and, if necessary, send you a corrected bill.

What to Do When You Owe Taxes

Pay Your Taxes — or Tell Us Why You Can't

When you file your tax return, we check to see if the math is accurate and if you have paid the correct amount. If you have not paid all you owe, we send a bill called a *Notice of Tax Due and Demand for Payment*. (You may have already received it if you did not pay your taxes or if your payment was incorrect.) The bill includes the taxes, plus penalties and interest. We encourage you to pay your bill by check or money order as quickly as possible.

If you have received a bill for unpaid taxes, you should pay the entire amount — or tell us right away why you cannot. Call the office that sent you the bill. There are several different ways that you can pay.

If you do not pay the taxes you owe and if you make no effort to pay them, we can ask you to take action to pay your taxes, such as selling or mortgaging any assets you have or getting a loan. If you still make no effort to pay your bill or to work out a payment plan, we may also take more serious action, such as seizing your bank account, levying your wages, or taking your other income or assets. (See pages 7–10 for more information about liens and levies.)

If you cannot pay all that you owe now, there's still something you can do. . .

If you cannot pay all your taxes now, pay as much as you can. By paying now, you reduce the amount of interest and penalty you will owe. Then, immediately call, write, or visit the nearest IRS office to explain your situation.

After you explain your problem, we may ask you to fill out a *Collection Information Statement* to help us compare your monthly income with your expenses and to figure out the amount you can pay. We can then help you work out a payment plan that fits your problem. Based on your situation, we will work with you to consider several different ways to pay what you owe:

- ◆ You may be able to make monthly payments through an installment agreement,
- ◆ You may be able to apply for an Offer in Compromise, or
- ◆ You may qualify for a temporary delay or your case may be considered a significant hardship.

By law, the IRS has the authority to collect outstanding federal taxes for ten years from the date of assessment. If you enter into an installment agreement, the IRS may request you to sign a waiver to extend the collection period. The ten year period is automatically extended for bankruptcy.

There is a special program to help you with tax problems that cannot be resolved through normal IRS channels. . .

The **Taxpayer Advocate Function** is an IRS program that provides an independent system to assure that tax problems, which have not been resolved through normal channels, are promptly and fairly handled. Each state and service center has at least one local Taxpayer Advocate, who is independent of the local IRS office and reports directly to the National Taxpayer Advocate. The Taxpayer Advocate can help if:

- ◆ You are suffering, or are about to suffer, a significant hardship
- ◆ You are facing an immediate threat of adverse action
- ◆ You will incur significant cost (including fees for professional representation)
- ◆ You will suffer irreparable injury or long-term adverse impact
- ◆ You have experienced a delay of more than 30 days to resolve the issue
- ◆ You have not received a response or resolution by the date promised; or
- ◆ All established systems or procedures have failed to operate as intended to resolve the problem or dispute.

You may apply for Taxpayer Advocate Function assistance by:

- ◆ Completing Form 911, *Application For Taxpayer Assistance Order* (ATAO)
- ◆ Completing a written request for assistance (if Form 911 is not available), or
- ◆ Requesting an IRS employee complete a Form 911 on your behalf (in person or over the phone).
- ◆ Sending (or FAX) Form 911 to your local Taxpayer Advocate. Refer to Publication 1546, *The Taxpayer Advocate Service of the IRS*, for your local Taxpayer Advocate address, phone and FAX number. Call the Taxpayer Advocate Service toll-free number on 1-877-777-4778. TDD 800-829-4059.

Set Up an Installment Agreement

Installment agreements allow the full payment of your debt in smaller, more manageable amounts. Installment agreements generally require equal monthly payments. The amount of your installment payment will be based on the amount you owe and your ability to pay that amount within the time available to the IRS to collect the tax debt from you. An installment agreement is a reasonable payment option for some taxpayers. To be eligible for an installment agreement, you must file all of your returns that are due.

If you already have an installment agreement from a previous amount you owed, we may still be able to help you. We may be able to include all of the amounts you owe into one installment agreement. However, you may have to complete a *Collection Information Statement* explaining your financial situation.

You should be aware, however, that an installment agreement is more costly to you than paying all the taxes you owe now and may be more costly than borrowing funds to pay the amount you owe. Why? Because the IRS charges interest and penalties on the tax you owe, and charges interest on the unpaid penalties and interest that have been charged to your tax account. So, while you are making payments on your tax debt through an installment agreement, IRS continues to charge interest and penalties on the unpaid portion of that debt. The interest rate on a bank loan or cash advance on your credit card may be lower than the combination of penalties and interest that IRS charges.

You should know about another cost associated with an installment agreement: To set up your installment agreement, we will charge you a \$43 user fee.

If you would like to pay off your tax debt through an installment agreement and . . .

- ◆ **You owe \$25,000 or less in tax**, just call the number on your bill to set up your plan now. We'll tell you what you have to do to begin today.
- ◆ **You owe more than \$25,000 in tax**, we may still be able to set up an installment agreement for you, but you may have to fill out a *Collection Information Statement*.

Even though you agree to an installment agreement, we may still file a *Notice of Federal Tax Lien* to secure the government's interest until you make a final payment. (See *Liens* on page 7.) However, we cannot levy against your property while your request for an installment agreement is being considered, while your agreement is in effect, for 30 days after your request for an agreement has been rejected, or for any period while an appeal of the rejection is being evaluated by the IRS.

If you do arrange for an installment agreement, you can pay with personal or business checks, money orders,

or certified funds; payroll deductions that your employer takes from your salary and regularly sends to the IRS; or electronic transfers from your bank account or other similar means.

Your agreement is based on your financial situation. If a change in your financial situation makes it necessary to change your agreement, contact us. ***If you have an installment agreement, you must pay on time. If you cannot, tell us immediately.*** Failure to make timely payments under an installment agreement could terminate the agreement.

Apply for an Offer in Compromise

The Internal Revenue Service (IRS) may accept an Offer in Compromise to settle unpaid tax accounts for less than the full amount of the balance due. This applies to all taxes, including any interest, penalties, or additional amounts arising under the internal revenue laws.

The IRS may legally compromise a tax liability for one of the following reasons:

- ◆ **Doubt as to liability** — there is doubt as to whether or not the assessed tax is correct.
- ◆ **Doubt as to collectibility** — there is doubt that you could ever pay the full amount of the tax owed. In these cases, the total amount you owe must be greater than the sum of your assets and future income.
- ◆ **Promote effective tax administration** — there is no doubt that the assessed tax is correct and no doubt that the amount owed could be collected, but you have an economic hardship or other special circumstances which may allow the IRS to accept less than the total balance due.

You may submit an Offer in Compromise by completing Form 656, *Offer in Compromise*. If you are basing your offer on doubt as to collectibility or promotion of effective tax administration, you must also submit Form 433-A, *Collection Information Statement for Individuals*.

Temporarily Delay the Collection Process

If we determine that you cannot pay any of your tax debt, we may temporarily delay collection until your financial condition improves. You should know that if we do delay collecting from you, your debt will increase because penalties and interest are charged until you pay the full amount. During a temporary delay, we will again review your ability to pay. We may also file a *Notice of Federal Tax Lien* (see page 7) to protect the government's interest in your assets.

About IRS Collection Actions

Before we take any action explained in this section, we will contact you to give you a chance to voluntarily pay what you owe. But if you do not pay your taxes in full and do not contact us to let us know why you cannot pay or why you disagree with our decision to take enforcement action, the law requires us to take action. We may:

- ◆ **File a lien** against your property (Make a legal claim to your property as security or payment for your tax debt) (*See the information below*).
- ◆ **Serve a levy** on your property or salary (Legally seize your property to satisfy a tax debt) (*See page 8*).
- ◆ **Assess a trust fund recovery penalty** for employment taxes (*See page 11*).

These *enforced collection actions* are the means by which we can enforce the *Notice and Demand for Tax Payment*. On the following pages, we explain these collection actions and the rules that govern them.

Liens

Liens give us a legal claim to your property as security or payment for your tax debt. A *Notice of Federal Tax Lien* may be filed only after:

- ◆ We assess the liability;
- ◆ We send you a *Notice and Demand for Payment* — a bill that tells you how much you owe in taxes; and
- ◆ You neglect or refuse to fully pay the debt within 10 days after we notify you about it.

Once these requirements are met, a lien is created for the amount of your tax debt. By filing this notice, your creditors are publicly notified that we have a claim against all your property, including property you acquire after the lien was filed.

The lien attaches to all your property (such as your house or car) and to all your rights to property (such as your accounts receivable, if you are an employer).



Once a lien is filed, your credit rating may be harmed. You may not be able to get a loan to buy a house or a car, get a new credit card, or sign a lease.

Releasing a lien

We will issue a *Release of the Notice of Federal Tax Lien*:

- ◆ Within 30 days after you satisfy the tax due (including interest and other additions) by paying the debt or by having it adjusted, or
- ◆ Within 30 days after we accept a bond that you submit, guaranteeing payment of the debt.

In addition, you must pay all fees that a state or other jurisdiction charges you to file and release the lien. These fees will be added to the amount you owe. See Publication 1450, *Request for Release of Federal Tax Lien*.

Usually 10 years after a tax is assessed, a lien releases automatically if we have not filed it again. If we knowingly or negligently do not release a *Notice of Federal Tax Lien* when it should be released, you may sue the federal government, but not IRS employees, for damages.

Payoff amount

The full amount of your lien will remain a matter of public record until it is paid in full. However, at any time you may request an updated lien payoff amount to show the remaining balance due. An IRS employee (either over the toll-free customer service telephone line, or at a walk-in counter service site, or your local IRS lien desk) can issue you a letter with the current amount due in order to release a lien.

Applying for a discharge of a federal tax lien

If you are giving up ownership of property, such as when you sell your home, you may apply for a *Certificate of Discharge*. Each application for a discharge of a tax lien releases the effects of the lien against one piece of property. Note that when certain conditions exist, a third party may also request a *Certificate of Discharge*. If you're selling your primary residence, you may apply for a taxpayer relocation expense allowance. Certain conditions and limitations apply. See Publication 783, *Instructions on How to Apply for a Certificate of Discharge of Property from the Federal Tax Lien*.

Making the IRS lien secondary to another lien

In some cases, a federal tax lien can be made secondary to another lien. That process is called subordination. See Publication 784, *How to Prepare Application for Certificate of Subordination of Federal Tax Lien*.

Withdrawing liens

By law, a filed notice of tax lien can be withdrawn if:

- ◆ the notice was filed too soon or not according to IRS procedures,
- ◆ you entered into an installment agreement to pay the debt on the notice of lien (unless the agreement provides otherwise),
- ◆ withdrawal will speed collecting the tax, or
- ◆ withdrawal would be in your best interest (as determined by the Taxpayer Advocate) and the best interest of the government.

We will give you a copy of the withdrawal and, if you write to us, we will send a copy to other institutions you name.

Appealing the filing of a lien

The law requires us to notify you in writing not more than 5 business days after the filing of a lien. We may give you this notice in person, leave it at your home or your usual place of business, or send it by certified or registered mail to your last known address. You may ask an IRS manager to review your case or you may request a Collection Due Process hearing with the Office of Appeals by filing a request for a hearing with the office listed on your notice. You must file your request by the date shown on your notice. Some of the issues you may discuss include:

- ◆ You paid all you owed before we filed the lien,

- ◆ We assessed the tax and filed the lien when you were in bankruptcy and subject to the automatic stay during bankruptcy,
- ◆ We made a procedural error in an assessment,
- ◆ The time to collect the tax (called the statute of limitations) expired before we filed the lien,
- ◆ You did not have an opportunity to dispute the assessed liability,
- ◆ You wish to discuss the collection options, or
- ◆ You wish help, as an innocent spouse.

At the conclusion of your Collection Due Process hearing, the IRS Office of Appeals will issue a determination. That determination may support the continued existence of the filed federal tax lien or it may determine that the lien should be released or withdrawn. You will have a 30-day period, starting with the date of the determination, to bring a suit to contest the determination. See Publication 1660, *Collection Appeal Rights*, for more information.

Levies

A levy is a legal seizure of your property to satisfy a tax debt. Levies are different from liens. A lien is a claim *used as security* for the tax debt, while a levy actually *takes the property* to satisfy the tax debt.

If you do not pay your taxes (or make arrangements to settle your debt), the IRS may seize and sell any type of real or personal property that you own or have an interest in. For instance,

- ◆ We could seize and sell property that you hold (such as your car, boat, or house), or
- ◆ We could levy property that is yours but is held by someone else (such as your wages, retirement accounts, dividends, bank accounts, licenses, rental income, accounts receivables, the cash value of your life insurance, or commissions).

We usually levy only after these three requirements are met:

- ◆ We assessed the tax and sent you a *Notice and Demand for Payment*,
- ◆ You neglected or refused to pay the tax, and

- ◆ We sent you a joint *Final Notice of Intent to Levy* and *Notice of Your Right to A Hearing* (levy notice) at least 30 days before the levy. We may give you this joint notice in person, leave it at your home or your usual place of business, or send it to your last known address by certified mail, return receipt requested. Please note: if we levy your state tax refund, you may receive a Notice of Levy on Your State Tax Refund, Notice of Your Right to Hearing after the levy.

You may ask an IRS manager to review your case, or you may request a Collection Due Process hearing with the Office of Appeals by filing a request for a Collection Due Process hearing with the IRS office listed on your notice. You must file your request within 30 days of the date on your notice. Some of the issues you may discuss include:

- ◆ You paid all you owed before we sent the levy notice,
- ◆ We assessed the tax and sent the levy notice when you were in bankruptcy and subject to the automatic stay during bankruptcy,
- ◆ We made a procedural error in an assessment,
- ◆ The time to collect the tax (called the statute of limitations) expired before we sent the levy notice,
- ◆ You did not have an opportunity to dispute the assessed liability,
- ◆ You wish to discuss the collection options, or
- ◆ You wish to make a spousal defense.

At the conclusion of your hearing, the Office of Appeals will issue a determination. You will have 30-days after the determination date to bring a suit to contest the determination. See Publication 1660, *Collection Appeal Rights*, for more information.

If your property is levied or seized, contact the employee who took the action. You also may ask the manager to review your case. If the matter is still unresolved, the manager can explain your rights to appeal to the Office of Appeals.

Levying your wages, federal payments, such as federal retirement or federal vendor payments, or your bank account

If we levy your wages or federal payments, the levy will end when:

- ◆ The levy is released,
- ◆ You pay your tax debt, or
- ◆ The time expires for legally collecting the tax.

If we levy your bank account, for 21 days your bank must hold funds you have on deposit — up to the amount you owe. This period allows you time to solve

any problems from the levy or to make other arrangements to pay. After 21 days, the bank must send the money, plus interest if it applies, to the IRS.

To discuss your case, call the IRS employee whose name is shown on the *Notice of Levy*.

Filing a claim for reimbursement when we made a mistake in levying your account

If you paid bank charges because of a mistake we made when we levied your account, you may be entitled to a reimbursement. To be reimbursed, you must file a claim with us within 1 year after your bank charged you the fee. Use Form 8546, *Claim for Reimbursement of Bank Charges Incurred Due to Erroneous Service Levy or Misplaced Payment Check*.

Levying your federal payments through the Federal Payment Levy Program

Under the Federal Payment Levy Program, if you owe the IRS, in order to pay that debt, we may levy (take) monies from the following federal payments that you may receive: retirement from the Office of Personnel Management, social security benefits, federal vendor payments, federal employee salaries, or federal employee travel advances and reimbursements. This program electronically levies your federal payments paid through the Department of Treasury, Financial Management Service (FMS). If we electronically levy your federal payments, the levy will take 15% from each of the payments until the account is resolved. If you already are working with an IRS employee, call that employee for assistance. If you are not working with an employee, call 1-800-829-7650 for assistance.

Releasing a levy

We must release your levy if any of the following occur:

- ◆ You pay the tax, penalty, and interest you owe.
- ◆ We discover that the time for collection (the *statute of limitations*) ended before the levy was served.
- ◆ You provide documentation proving that releasing the levy will help us collect the tax.
- ◆ You have an installment agreement, or enter into one, unless the agreement says the levy does not have to be released.
- ◆ We determine that the levy is creating a significant economic hardship for you.
- ◆ The expense of selling the property would be greater than the fair market value of the property.

Releasing your property

Before the sale date, we may release the property if:

- ◆ You pay the amount of the government's interest in the property,

- ◆ You enter into an escrow arrangement,
- ◆ You furnish an acceptable bond,
- ◆ You make an acceptable agreement for paying the tax, or
- ◆ The expense of selling your property would be greater than the fair market value of the property.

Returning levied property

If you request the return of levied property within nine months from the date of the levy, we can consider returning the property if:

- ◆ We levy before we send you the two required notices or before your time for responding to them has passed (ten days for the *Notice and Demand*; 30 days for the *Notice of Intent to Levy* and the *Notice of Right to Hearing*).
- ◆ We did not follow our own procedures.
- ◆ We agree to let you pay in installments, but we still levy, and the agreement does not say that we can do so.
- ◆ Returning the property will help you pay your taxes.
- ◆ Returning the property is in your and the government's best interest.

Selling your property

We will post a public notice of a pending sale, usually in local newspapers or flyers. We will deliver the original notice of sale to you or send it to you by certified mail.

After placing the notice, we must wait at least ten days before conducting the sale, unless the property is perishable and must be sold immediately.

Before the sale, we will compute a *minimum bid price*. This bid is usually 80% or more of the forced sale value of the property, after subtracting any liens.

If you disagree with this price, you can appeal it. Ask that the price be computed again by either an IRS or private appraiser.

You may also ask that we sell the seized property within 60 days. For information about how to do so, call the IRS employee who made the seizure. We will grant your request, unless it is in the government's best interest to keep the property. We will send you a letter telling you of our decision about your request. After the sale, we first use the proceeds to pay the expenses of the levy and sale. Then we use any remaining amount to pay the tax bill.

- ◆ **If the proceeds of the sale are less than the total of the tax bill and the expenses of levy and sale**, you will still have to pay the unpaid tax.

- ◆ **If the proceeds of the sale are more than the total of the tax bill and the expenses of the levy and sale**, we will notify you about the surplus money and will tell you how to ask for a refund. However, if someone, such as a mortgagee or other lienholder, makes a claim that is superior to yours, we will pay that claim before we refund any money to you.

Redeeming your real estate

You (or anyone with an interest in the property) may redeem your real estate within 180 days after the sale. You must pay the purchaser the amount paid for the property, plus interest at 20% annually.

Some property cannot be levied or seized

By law, some property cannot be levied or seized. We may not seize any of your property when the expense of selling the property would be more than the tax debt. In addition, we may not seize or levy your property on the day you attend a collection interview because of a summons.

Other items we may not levy or seize include:

- ◆ School books and certain clothing;
- ◆ Fuel, provisions, furniture, and personal effects for a household, totaling \$6,780;*
- ◆ Books and tools you use in your trade, business, or profession, totaling \$3,390;*
- ◆ Unemployment benefits;
- ◆ Undelivered mail;
- ◆ Certain annuity and pension benefits;
- ◆ Certain service-connected disability payments;
- ◆ Workmen's compensation;
- ◆ Salary, wages, or income included in a judgment for court-ordered child support payments;
- ◆ Certain public assistance payments;
- ◆ A minimum weekly exemption for wages, salary, and other income.

Use Publication 1494, *Table of Figuring Amount Exempt from Levy on Wages, Salary and Other Income* (Forms 668-W(c)(DO) and 668-W(c)), to determine the amount of earned income exempt from levy.

*These amounts will be indexed annually for inflation.

Employment Taxes for Employers

To encourage prompt payment of withheld income and employment taxes, including social security taxes, railroad retirement taxes, or collected excise taxes, Congress passed a law that provides for the trust fund recovery penalty. (These taxes are called *trust fund taxes* because you actually hold the employee's money in trust until you make a federal tax deposit in that amount.)

If we plan to assess you for the trust fund recovery penalty, we will send you a letter stating that you are the *responsible* person. You have 60 days after you receive our letter to appeal our proposal. If you do not respond to our letter, we will assess the penalty against you and send you a *Notice and Demand for Payment*. Also, we can apply this penalty whether or not you are out of business.

A responsible person is a person or group of people who has the duty to perform and the power to direct the collecting, accounting, and paying of trust fund taxes. This person may be:

- ◆ an officer or an employee of a corporation,
- ◆ a member or employee of a partnership,
- ◆ a corporate director or shareholder,
- ◆ a member of a board of trustees of a nonprofit organization, or
- ◆ another person with authority and control over funds to direct their disbursement.

Assessing the trust fund recovery penalty

We may assess the penalty against anyone:

- ◆ who is responsible for collecting or paying withheld income and employment taxes, or for paying collected excise taxes, and
- ◆ who willfully fails to collect or pay them.

For willfulness to exist, the responsible person must:

- ◆ Have known about the unpaid taxes, and
- ◆ Have used the funds to keep the business going or allowed available funds to be paid to other creditors.

Especially for employers. . .

Employment taxes are:

- ◆ The amount you should withhold from your employees for both income and social security tax, plus
- ◆ The amount of social security tax you pay on behalf of each employee.



Caution

If you ignore the federal tax deposit and filing requirements, the amount you owe can increase dramatically.

If you do not pay your employment taxes on time, or if you were required to and did not include your payment with your return, we will charge you interest and penalties on any unpaid balance. We may charge you penalties of up to 15% of the amount not deposited, depending on how many days late you are.

If you do not pay withheld trust fund taxes, we may take additional collection action. We may require you to:

- ◆ File and pay your taxes monthly rather than quarterly, or
- ◆ Open a special bank account for the withheld amounts, under penalty of prosecution. See Form 8109, *Federal Tax Deposit Coupon* and Circular E, *Employer's Tax Guide*.

See publication 535, *Business Expenses*, for information on how to deduct interest paid as a business deduction.

Figuring the penalty amount

The amount of the penalty is equal to the unpaid balance of the trust fund tax. The penalty is computed based on:

- ◆ The unpaid income taxes withheld, plus
- ◆ The employee's portion of the withheld FICA taxes.

For collected taxes, the penalty is based on the unpaid amount of collected excise taxes.



Caution

Once we assert the penalty, we can take collection action against your personal assets. For instance, we can file a federal tax lien against you, if you are a responsible person.

Appealing the decision

You have the right to appeal our decision to recommend that you pay the trust fund recovery penalty amount.

See Publication 5, *Your Appeal Rights and How to Prepare a Protest if You Don't Agree*, for a clear outline of the appeals process.

We offer you a number of free publications and forms. . .

These IRS forms and publications mentioned in this document give you more information about the various situations discussed. For copies of these documents, call us, write to us, visit your local library or IRS office, or contact us at our website at www.irs.gov.

Forms

- ◆ Form 433-F, *Collection Information Statement*
- ◆ Form 911, *Application for Taxpayer Assistance Order*
- ◆ Form 656, *Offer in Compromise*
- ◆ Form 2848, *Power of Attorney and Declaration of Representative*
- ◆ Form 8109, *Federal Tax Deposit Coupon*
- ◆ Form 8821, *Tax Information Authorization*
- ◆ Form 8546, *Claim for Reimbursement of Bank Charges Incurred Due to Erroneous Service Levy or Misplaced Payment Check*
- ◆ Form 9465, *Installment Agreement Request*

Publications

- ◆ Publication 1, *Your Rights as a Taxpayer*

- ◆ Publication 5, *Your Appeal Rights and How to Prepare a Protest if You Don't Agree*
- ◆ Publication 783, *Instructions on How to Apply for a Certificate of Discharge of Property from the Federal Tax Lien*
- ◆ Publication 784, *How to Prepare Application for Certificate of Subordination of Federal Tax Lien*
- ◆ Publication 908, *Bankruptcy Tax Guide*
- ◆ Publication 919, *Is My Withholding Correct?*
- ◆ Publication 1450, *Request for Release of Federal Tax Lien*
- ◆ Publication 1494, *Table of Figuring Amount Exempt from Levy on Wages, Salary and Other Income*
- ◆ Publication 1546, *The Taxpayer Advocate Service of the IRS*
- ◆ Publication 1660, *Collection Appeal Rights*
- ◆ Circular E, *Employer's Tax Guide*