What You Need to Know when You Can't Pay Your Taxes

Unable to pay your tax bill? Don't despair. Knowing what to expect will make the situation easier.

Even the most savvy nonprofit can run afoul of taxing authorities. With proper planning, however, most organizations can weather unwanted attention from the IRS or state taxing authorities, says David Miles, vice president of 20/20 Tax Resolution (2020taxresolution.com). Based on 20/20's experience, Miles shares some insights that nonprofit professionals should heed when facing tax trouble:

1. Understand the process.

It's common to panic when you receive a notice from a taxing authority. But doing so can make it harder to gather the resources you need to solve the problem. You can survive the crisis if you understand what's likely to happen so that you can be prepared.

"Many of our nonprofit clients struggle with a heavy conscience when they become aware of a tax issue" Miles says. "The good news is the IRS tends to have a soft spot for nonprofits and the work they do and generally wants them to succeed. So lesson number one is: Stay calm."

Although the IRS will initiate the process of collection almost immediately when a tax return with a balance due is filed, its level of aggression varies widely from case to case. In the case of nonprofit organizations, taxing authorities are usually willing to work with groups sooner rather than later to avoid long-term damage.

The IRS will begin the process of collections with a simple "Reminder of Overdue Taxes" letter. This will be followed up with a "Notice and Demand" for payment letter if action isn't taken on the first letter. These notifications are typically issued about 30 days after a delinquent tax return has been filed with a balance due. If the IRS receives no response to its initial requests for payment within the timeframe noted in the letters, it will proceed with increasingly aggressive correspondence.

After the timeframe to respond has elapsed, the IRS will issue what's called a CP504 notice, "Intent to Seize Property or Rights to Property." This is the IRS's preliminary threat to enforce collection of a debt. If it again receives no response, it will elevate its aggression and file a federal tax lien or provide a "Final Notice of Intent to Levy."

After a Final Notice of Intent to Levy (the tool commonly used by the IRS to take money) has been issued, you have 30 days to respond before the IRS can legally take this action. Once 30 days have passed and you haven't taken action or requested an appeals hearing, the IRS can levy at any time. This entire process can take as little as four months but often takes much longer, Miles explains.

Unpaid employment taxes are likely to engender special scrutiny. When deducted from an employee's pay, employment taxes are considered to be held in a trust by the employer and are used to pay employees' income tax and to fund Social Security and Medicare. Thus, the IRS pursues this tax type much more aggressively than other tax types.

2. Be aware of potential consequences.

It can be tempting to ignore unpleasant news, as Miles notes, but using a "head in the sand" approach won't stop the case from moving forward. Failing to acknowledge communication from the IRS will only make matters worse.

The IRS will use an organization's last known address to initiate communication about an unpaid tax liability. If you've moved and forgotten to notify the IRS of your new address, you'll be the one to suffer by being in the dark. Failing to acknowledge communication can end up costing you collection appeal rights.

A common misperception is that the IRS settles cases for pennies on the dollar, Miles says. While the IRS does have a settlement program called the Offer in Compromise (OIC), such compromises occur a lot less often than commonly believed. The IRS's numbers over the past two years show an Offer in Compromise rate of roughly 40%. Since there are many nuances to an Offer in Compromise case, there's no substitute for experience when it comes to presenting the IRS with a viable, realistic compromise offer. If you want to pursue this option, therefore, Miles recommends seeking professional advice.

Another misperception is that the IRS will immediately begin action to seize an organization's assets in its pursuit to collect a tax liability. "In actuality, the IRS won't take an organization's assets," Miles says. "That's not to say that the IRS can't take assets, it's just not a typical reaction in these situations." Seizures (which can include real estate, vehicles, and other assets) are rare. For example, in the past fiscal year, the IRS has reported fewer than 450 seizures.

If you're concerned about dealing with the IRS, you can seek assistance through a tax resolution provider such as an enrolled agent (a federally authorized tax practitioner who can represent taxpayers before the IRS). "Of course, dealing with IRS Collections is a nuanced process that shouldn't be taken lightly," Miles says. "But, arming yourself with information about the process will make any unwanted encounter with the IRS less stressful. The bottom line is that not all cases are viewed equally within the eyes of the IRS – and nonprofit organizations are viewed positively overall."

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