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IRS "Fresh Start" for Tax Liens and Installment Deals?

You've no doubt heard of what the Wall Street Journal calls "a rare show of leniency" from the IRS. But as a tax lawyer for over 30 years, I'm not sure how its implementation will impact most struggling taxpayers. I'm cautiously optimistic it might have an impact, but the proof is in the pudding.

A target of the IRS' Information Release 2011-20 is tax liens, and its true there's long been a push-me-pull-you effect. Even if the IRS doesn't pursue aggressive collection efforts like trying to sell assets, it is trained to slap on a tax lien. After all, that's how creditors get priority and get security for payment. But tax liens impact credit ratings and some taxpayers say they are hurt disproportionately and can be put out of business by a tax lien.

Liens? The IRS now says it will be more cautious with liens, only filing them if tax debts are $10,000 or more, double the prior threshold. In a move to appease credit rating impacts, the IRS will also try a lien "withdrawal" in some cases, up from a mere lien release. Lien releases stay on your record for years, while withdrawals are immediate and permanent. Think of it as the difference between divorce and annulment.

A lien isn't payment of course. Under Section 6321 of the tax code, when you fail to pay a tax liability after notice and demand, a lien attaches to all your property and rights to property. The IRS can seize and sell property subject to a federal tax lien. So filing a lien is second nature to the IRS but doesn't necessarily mean they will try to seize and sell anything.

Taxpayer Advocate Nina Olson—I confess I am a big fan of her and all she does—is predictably cautious and understated in her praise for the IRS. She says the new IRS program is "a significant step in the right direction," but not enough. She may well be right, and clearly she hears from many beleaguered taxpayers caught within the gears of the tax system.

Installment Agreements? Another change will be easier installment agreements, although in my experience these are relatively easy to get already. Still, the amount of time the IRS usually gives is pretty limited, which means payments can be too high. The new program for "streamlined" installment agreements will allow up to 24 months to pay as long as the tax debt is $25,000 or less.

Unfortunately, this move won't help people in the over $25,000 category unless they can pay down their debt to get under the limit. In most cases, the IRS will require a Direct Debit Installment Agreement (DDIA) so the IRS gets its monthly payment automatically. In my view, that's a good thing and should eliminate many of the common problems.

Offers in Compromise? It's hard to talk about offers in compromise without wincing, since there's already so much misinformation and so many hyperbolic infomercials about pennies-on-the-dollar tax deals. Taxpayers should be wary. If you are not submitting the IRS forms yourself, get someone reliable whom you trust. Be wary of hype.

As for amounts and types of taxes, there's no limit on how much tax you can try to compromise. However, there's a simplified process for smaller incomes and smaller tax debts, and that's where the changes will be. The IRS' new streamlined offer program welcomes taxpayers with annual incomes of up to $100,000 and tax liabilities under $50,000, doubling prior limits.

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