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1999 BRINGS MORE TAXPAYER RIGHTS

The 1999 filing season brings dramatic expansions in the rights of taxpayers. From new rules protecting innocent spouses to greater power for the National Taxpayer Advocate, people will find an array of new options available to assist them.

Taxpayer rights formed a central theme in the IRS Restructuring and Reform Act of 1998, which was approved last summer by Congress and signed July 22 by President Clinton. The new law accompanies other IRS efforts to assist taxpayers, which are highlighted on accompanying Fact Sheets.

Among the new provisions in place for this year's filing season:

MORE CLOUT FOR THE TAXPAYER ADVOCATE

The power of the National Taxpayer Advocate has been significantly expanded by last year's law. The office works inside the IRS to be an independent watchdog for taxpayers.

The expansion includes creating a national system of taxpayer advocates serving in local IRS offices. These local taxpayer advocates also work independently, reporting to the National Taxpayer Advocate rather than other arms of the IRS.

One of their tools is the Taxpayer Assistance Order, which can be requested by a taxpayer suffering or about to suffer a "significant hardship" involving tax law administration. The orders can be issued if the National Taxpayer Advocate determines a significant hardship exists that justifies granting the emergency assistance order.

The Taxpayer Assistance Orders can cover a variety of circumstances, including keeping the IRS from taking action against a taxpayer and requiring the release of taxpayer property.

Under the new legislation, several factors must be considered before a Taxpayer Assistance Order can be issued:

- Whether the taxpayer faces an immediate threat.
- Whether there has been a delay of more than 30 days in resolving the taxpayer's problem.

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- Whether the taxpayer faces significant costs, such as legal fees, if the order is not granted.
- Whether the taxpayer faces long-term harm if the order is not granted.

Taxpayers can use Form 911 to apply for a Taxpayer Assistance Order.

EASIER ACCESS TO THE PROBLEM RESOLUTION PROGRAM

The National Taxpayer Advocate also has spotlighted the Problem Resolution Program with a new toll-free number for people with long-standing tax troubles.

The hotline for help -- 877-777-4778 -- is available for taxpayers who haven’t been able to promptly resolve problems through normal IRS channels.

The call will put people in touch with the trouble-shooters at the Problem Resolution Program. A personal taxpayer advocate will be assigned to each person to help clear up problems and ensure each case is given a complete, impartial review.

For routine questions, taxpayers should first call 1-800-829-1040 before calling the Taxpayer Advocate’s Problem Resolution Program number.

MORE HELP FOR INNOCENT SPOUSES

The new law makes it much easier for an “innocent spouse” to qualify for tax relief when their husband or wife makes an error on a tax return.

When a married couple files a tax return jointly, each spouse is fully liable for the taxes owed, along with any interest or penalty due. Following enactment of the new law, there are now three categories where an innocent spouse can seek help from the IRS:

- **Traditional relief.** The new law makes innocent spouse tax relief available in situations where the other spouse makes an error -- such as omitting income or claiming false deductions or credits -- regardless of the amount of money involved.

  The innocent spouse seeking relief must not know about the tax problem when the return was signed. In some cases, partial relief is available if the spouse did not know the extent of the tax understatement.

- **Separate liability.** The law allows divorced or separated spouses to limit their liability on tax deficiencies involving a joint tax return. In other words, a spouse may elect separate liability on the amount owed, based on each person's share of the items at issue.

  This separate liability provision can apply to joint filers who are divorced, widowed, legally separated or have not lived together for the past 12 months.

- **Equitable relief.** The new law also allows the IRS to go one step further and provide equitable relief in certain cases where a spouse does not qualify for the traditional innocent spouse relief or the separate liability provision.

  For example, equitable relief may be granted when one spouse did not know that the other spouse took money intended for tax payments and used it for other purposes.

  The IRS will normally grant equitable relief if the tax were not paid when the joint return was filed, the requester is divorced or separated, the requester did not know that the tax would not be paid, and the requester would suffer undue hardship if the relief was not granted.
  In addition, the IRS will take into account a variety of other factors on equitable relief requests, including hardship, spousal abuse, divorce decree obligations and knowledge of the underpayment or understatement of tax.

These three options can be requested by filing Form 8857.

MORE OPPORTUNITY TO MAKE INSTALLMENT PAYMENTS

The new law creates guaranteed access to installment payment agreements in cases where the taxpayer owes $10,000 or less in income taxes and cannot pay the entire tax bill immediately.

To qualify, several provisions must be met:

- The taxpayer must have filed income tax returns and paid taxes during the previous five years.
- The taxpayer cannot have any previous installment agreements during the five-year period.

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- The taxpayer cannot pay the entire tax bill immediately.
- The taxpayer agrees to pay off the installment agreement in three years.
- The taxpayer agrees to comply with the tax law and follow the terms of the installment agreement.

After Dec. 31, 1999, the failure to pay penalty will be cut in half for taxpayers who have made installment agreements with the IRS. The monthly penalty rate on the amount owed drops from 0.5 percent to 0.25 percent.

The lower rate only applies in cases where a taxpayer filed the original tax return in a timely manner and has not received a notice of intent to levy.

NEW TAXPAYER SAFEGUARDS ON PAST-DUE TAXES

The new law expands taxpayer rights in situations where the IRS seeks to collect past-due taxes. The law formalizes several steps the IRS had instituted earlier.

Among the changes are procedures designed to guarantee due process when the IRS moves to collect tax debts.

Taxpayers will now have the right to request a hearing before an impartial appeals officer within 30 days after a notice of lien has been filed or a notice of intent to levy has been sent. In addition, the IRS will provide the taxpayer with a written notification about this appeals right.

If the taxpayer requests a hearing during this period, the proposed levy may not take place until after the appeals officer makes a finding. The taxpayer also has 30 days to challenge the appeals finding in U.S. Tax Court or U.S. District Court, during which period the IRS may not levy.

The appeals provisions take effect Jan. 19.

During the appeals process, the taxpayer can also request the IRS to consider establishing collection alternatives, such as installment agreement, to pay off the tax bill.

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Other new elements involving collection include:

- The new law prohibits seizures of residences, except rental property, when there is a tax liability of $5,000 or less.
- The IRS must consider all other payment possibilities before seizing a person's principal residence or assets of a business.
- A taxpayer's principal residence -- or that of a spouse, former spouse or minor child -- may be seized only with a court order.
- Taxpayers can seek civil damages of up to $100,000 if agency workers negligently disregard the tax code or regulations involving tax collection.

BURDEN OF PROOF SHIFTS TO IRS

When tax disputes wind up in court, the burden of proof on factual issues no longer falls on the taxpayer in certain circumstances. In these situations, it will be up to the IRS to prove taxpayer liability, a switch from the old standard where the agency's position was generally presumed correct unless shown otherwise.

For the burden of proof to shift away from the taxpayer, the legislation requires several criteria to be met:

- The taxpayer must present credible evidence relating to the tax liability in dispute.
- The taxpayer must maintain records as required by the tax code.
- The taxpayer must comply with all substantiation requirements of the tax code.
- The taxpayer must cooperate with reasonable requests by the IRS for information, meetings and documents involving the preparation of the tax return and treatment of items included on the tax return.
- The burden of proof does not shift for corporations, partnerships or trusts with net worths topping $7 million.

OTHER NEW TAXPAYER RIGHTS

In other areas, the new law:

- Creates a limited confidentiality privilege involving taxpayer communications with federally authorized tax practitioners.
- Expands IRS authority to award administrative costs and other fees in tax disputes, including payment of attorneys' fees for taxpayers.

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- Suspends interest and most penalties for individual taxpayers if the IRS fails to provide a tax liability notice within 18 months after a return is filed in a timely manner.
- In cases where the IRS identifies a possible tax deficiency, the agency will provide in the first letter to taxpayers a detailed description of the examination, appeals and collection process. The letter also will detail the assistance available from the National Taxpayer Advocate.

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