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# Your Client Owes the IRS What's Next?

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# Fundamental Rule

- No Collection without an Assessment





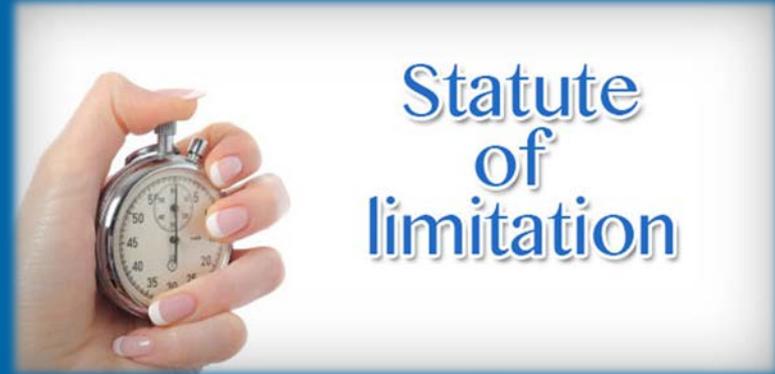
# Assessment

- Taxpayer self-assesses via Form 1040
- IRS assesses via:
  - Math Error Authority
  - Deficiency Procedures



# General Rule

- IRS has 10 years to collect tax after it has been assessed





# Extending the 10-Year Collection Period

- Common ways include:
  - Filing a bankruptcy petition
  - Requesting a collection due process (CDP) hearing
  - Submitting an offer in compromise (OIC)



# Extending the 10-Year Collection Period *more...*

- Common ways include:
  - Taxpayer outside the US for at least a 6-month period
  - Requesting innocent spouse relief



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# IRM – Making the Collection Decision

- Full Pay
- Installment Agreement (IA)
- Offer in Compromise (OIC)
- Currently Not Collectible (CNC)
- Enforced Collection



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# Full Pay – the 120-day Rule

- Full pay is always requested
- Exception allows taxpayer to pay in full within 120 days
- Installment agreement not required
- Late payment penalties apply



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# Installment Agreements

- Guaranteed
- Streamlined
- In Business Trust Fund Express
- Other – requires Collection Information Statement (CIS)



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# Guaranteed IA

- **Tax** liability does not exceed \$10,000
- Good filing record for last 5 years
- Must pay off within 36 months
- Must stay current during the IA period



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# Streamlined IA

- **Total** liability does not exceed \$25,000
- \$50,000 limit for individuals & out-of-business sole proprietors
- Must pay off within 72 months
- OK to pay down to get under threshold



# Partial Pay IA

- “Something is better than nothing”
- Full CIS required
- Asset equity considered
- May extend collection statute (up to 5 years maximum)



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# Offer in Compromise

- Let's be real – is it really pennies on the dollar?
- Collection activity stayed per IRS policy
- May be rejected for public policy reasons



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# Currently Not Collectible

- IRS Policy Statement 5-71
- Mandatory annual review of tax returns
- IRS defines hardship



# Hardship

- When a taxpayer would be unable to meet necessary living expenses





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# Enforced Collections

- Lien
  - Attaches to all current & future property
- Levy/Seizure
  - No legal distinction between these two



# Lien

- Is created when assessment is made
- Is silent – needs a Notice of Federal Tax Lien (NFTL)
- Requires taxpayer notification within 5 business days of filing



# Levy

- Levy applies to income – bank accounts, wages, etc.
- Seizure takes property
- Both require taxpayer notification 30 days prior



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# Collection Due Process (CDP) Hearing

- Statutory – a taxpayer right
- Enforced collection is stayed
- Extends the collection statute
- Provides for judicial review (Tax Court)



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# Equivalent Hearing (EH)

- Not statutory – within 1 year of notice
- Enforced collection allowed but generally stayed (IRS policy)
- Collection statute not extended
- No judicial review



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# Wrap-Up



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