



IRS Tax Settlement Options to Consider

Have you received an IRS collection letter?

If you are among the many Americans who have received a collection letter from the IRS, you are probably wondering what you can do to make them go away. You may have called the IRS question hotline and waited an hour or more only to have a person ask for a payment or payment plan. Of course payment in full or agreeing to a payment plan are viable options but you should be aware of other options available to you.

Penalties and Interest. There are many penalties that may apply to you but I will outline a few of the most common ones. In general, there is a monthly penalty of 5% of tax due if a return is not timely filed. You are probably aware of the timely mailed is timely filed rule which allows taxpayers to file on the due date. That being said, if your return is lost or otherwise not received, you may be subject to the 5% penalty if you cannot prove the return was timely mailed. I recommend mailing your return via certified mail with a return receipt requested since this penalty can be expensive. For electronic filers, a confirmation is usually sent within 48 hours that the return was received on the date it was e-filed. If you fail to pay some or all of the tax due, you may be subject to the 0.5% failure to pay penalty. This penalty is 0.5% of the unpaid tax and it is assessed monthly. Both the failure to file and failure to pay penalties are capped at 25% of the amount of tax due. Interest is compounded daily and is currently around 3%.

First Time Abatement Penalty Waiver. If you have filed all required returns, paid the tax due, and have a three year clean penalty history, you may qualify for the First Time Abatement Penalty (FTA) Waiver. Filing and payment compliance means there must be no outstanding request for an unfiled return and all amounts have been paid or arranged for payment. You may qualify for the FTA waiver even if you had a penalty assessed more than three years ago, received reasonable cause relief for a penalty, received an FTA more than three years ago, or have penalties on subsequent years. If you are requesting FTA waiver, you should also request abatement on any other grounds that may apply.

Reasonable Cause. A taxpayer may request relief from penalties based on reasonable cause not due to willful neglect. Reasonable cause includes reliance on a tax advisor, death, serious illness, unavoidable absence, erroneous IRS advice, natural disaster, and service in a combat zone. Reasonable cause does not include mistake, workload, invalid extension, lost records, ignorance of the law, constitutional objections, and inability to pay. Reasonable cause is based on the facts and circumstances of your



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particular case and the IRS will consider the following factors: reasonable cause provided by taxpayer, payment and penalty history, time required to comply, and exercise of ordinary business care and prudence. Reasonable cause relief may be requested by sending an explanation to the service center listed on your collection letter or calling (800) 829-1040. If you believe you qualify for a reasonable cause abatement, more information is available in the Internal Revenue Manual (http://www.irs.gov/irm/part20/irm_20-001-001r-cont01.html).

Payment Plan. Also known as an installment agreement, a Payment Plan is a way for taxpayers with an ability to pay some but not all of the debt to make incremental payments to the IRS. Before applying you should make sure all required returns have been filed, consider other sources which may have a better interest rate, and determine the largest amount you can pay each month. Keep in mind that there is a fee associated with setting up a payment plan with the IRS. If you decide to apply for a payment plan, you may do so online through IRS.gov.

Offer in Compromise. An Offer in Compromise (OIC) is an agreement between the government and taxpayer that settles the tax liability for less than the amount owed. A taxpayer is prohibited from filing an OIC if he or she has not filed all returns, is currently in bankruptcy, liability has not yet been assessed, or the statute of limitations has expired on collection (generally 10 years from assessment). Filing an OIC prevents the IRS from levying until the liability is settled or the OIC is rejected and any appeal has been resolved. An OIC may be based on doubt as to liability, collectability, or effective tax administration. There are many factors to consider in determining whether to make an OIC.

Administrative and Judicial Review. If the IRS does not accept your explanation and continues to pursue collection, you may file a Protest with the Appeals Office, an administrative review forum. To start the Appeals Office process, the taxpayer must complete a statement of facts and attach a Declaration signed under the penalty of perjury. Appeals Office consideration is available either before or after paying the assessment. If you are unsuccessful at the Appeals Office, you may further appeal to a Federal Court.

This article summarizes a few options available to you. Any explanation or other statement you send to the IRS should be accompanied by supporting documents. If you have questions about your situation you should speak with your tax attorney.

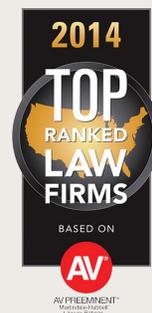
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