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Craig Smalley • May. 22, 2017

The Most Overlooked Tax Resolution Option

By Craig W. Smalley, MST, EA

I have a client, a husband and wife, and about fifteen years ago the wife went to prison for embezzling money from her employer. In 2007, when she began serving her sentence, her retirement accounts and everything else were liquidated to pay restitution to the company where she had worked. In 2010, her husband liquidated his retirement accounts, too, so that he would have money to live on. About four years ago, the wife was released from prison and rejoined her husband. The IRS promptly went after them for back taxes for 2007 and 2010.

Because of the statute of limitations, the year 2007 was off the radar, but not 2010. The IRS is currently issuing a lien against the taxpayer for 2010, which is why the client called me for help. Since his wife's incarceration, the husband had moved from Florida to Arizona and has been working as a waiter making minimal amounts of money.

My first instinct was to file an Offer in Compromise (OIC), but after talking to my client, I had another thought. His income isn't going up anytime soon; he is making just enough money to get by. Why not ask for a Collections Due Process Hearing (CDP) and request that the client be put on Currently Non-Collectible Status (CNC)?

What the CNC does is stop the IRS from trying to collect the amount of taxes owed. When a client is placed on this status, the clock just ticks while the IRS holds off collections actions. The IRS normally has ten years from the date that a tax is assessed to collect that tax. Asking for an Installment Arrangement adds two years to that time, while an OIC adds the amount of time it takes for the OIC to be considered.

But with CNC, the clock just ticks on and on, and the time is added to the IRS's 10-

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One must also keep in mind that the CNC will not stop the IRS from filing a lien that will affect your client's credit rating. In addition, I usually only employ this option in situations like this, where the Statute is about to toll.

How do you go about asking for CNC status? It depends. Some agents will put the client on CNC if you just ask. They will look at the past tax returns and make a decision. Other agents will ask for financial information, such as a Form 433-A or Form 433-F. By submitting these forms to the IRS, you are giving up a lot of personal information. I like to steer clear of them if at all possible.

Something else that's important to note is that while the client is on CNC, any tax refunds will be applied to the back taxes that are owed, just like anything else. So, you would want to make sure that your client is not getting a large refund year after year.

CNC is sometimes the most overlooked tax resolution option. It should be used when the Statute is about to toll, or when a client has no other way to pay the taxes due.

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