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Feb. 02, 2018

I had a client in Alabama that came to me because she was audited, lost her appeal rights, and Tax Court rights, and was saddled with a \$500,000 tax liability. When I take a collections case, the first thing I do is try to find out why this person owes the amount that they owe. My client was the wife of a physician, that made considerable money.

They were from New York, and the wife, along with her son, opened a series of New York Pizzerias in Alabama. These pizza shops lost tons of money. The companies were set up as multi-member limited liability companies (LLC), as disregarded entities, meaning they were taxed as partnerships. There were a total of three pizza shops, that were located in a small town in the middle of Alabama.

This small city had one tax preparer, who was unlicensed. This tax preparer filed three years of the partnership return and the client's personal returns, taking huge losses from the pizzeria. These returns were audited, and the losses that the preparer took were reclassified as passive losses. Because the preparer was unenrolled, she could not appeal the findings of the audit, and frankly I'm not too sure she fully understood the crux of the matter.

When I contacted the auditor, he gave me his notes, and I realized that the losses were reclassified as passive, causing a large tax liability. Since the time had long passed for an appeal or Tax Court Petition, the only option open to me was an audit reconsideration, which was granted ten months later.

I had to fly to Huntsville, Alabama, and I was left with the task, how do you prove that an owner of a business spent 500 hours working in a business? I've been in practice since 1994, and I have never known an owner to clock in, when they start working, and clock out when the day was over. For a salesperson, or even a professional, the evidence of working 500 hours in a year, can easily be shown by

their calendar that lists all of their appointments. For a restaurant owner, how do

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the big issues and let the little ones go. For instance, in this case, there was an issue with the amount of rent paid, and other expenses. I didn't even bother with those, I focused on the passive loss issue.

I went to the audit reconsideration, and I presented the evidence that my client was an active participant in the various businesses. I didn't bother with the small issues. The auditor, took my evidence to examine. About five months later, we received a notice that the \$500,000 tax debt, was reduced to \$20,000.

The reason that this matter got as far as it did, was that the preparer, which was the one that represented the client at the original audit, did not have the knowledge to know what was being argued. When my client received notices from the IRS, the preparer stated that she was working on it. An unlicensed person cannot work a collections case. However, my client was under the impression that everything was being taken care of.

The next thing that happened was the IRS put a lien on my client, and started garnishing wages. She went through two tax resolution firms that charged her a lot of money, and didn't really do anything. I was the only one to find out why she owed what she owed and solved the issue.

When I got back home, I reported the unlicensed preparer to The Office of Professional Responsibility. From what I hear, my client wasn't the only one that she was doing this to, so unlicensed preparer lost her right to practice.

The point that I am trying to make, is that when it comes to tax resolution, it can become like a mill. You get desensitized to the amounts that are owed, and the client is willing to pay a lot of money to get the IRS off their back. Instead of doing that, take a moment to find out why your client owes the money, and see what you can do about it

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