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potentially those of your relatives without notice.

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By Kelley R. Taylor, Kiplinger Consumer News Service (TNS)

The IRS has scored a win at the U.S. Supreme Court. Last Thursday, the court released its ruling in *Polselli v. IRS*, involving whether the agency can access bank records of a taxpayer's relatives or associates—without notice—to help with tax collection efforts. The Supreme Court's answer is yes. Under an existing statute, the IRS can

secretly probe your bank records and potentially your relatives' bank records without

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What does this mean for taxpayers in non-legal terms? The IRS can probe financial records to aid in the collection of a taxpayer's debt without notifying the taxpayer or third parties like the taxpayer's relatives or associates. This can also happen when the financial records that the IRS wants to see belong to someone other than the taxpayer who does not owe the IRS unpaid taxes.

Supreme Court affirms IRS summons power

The dispute in the Polselli case began when a taxpayer (Remo Polselli) owed more than \$2 million in taxes to the IRS. The agency issued summonses to J.P. Morgan Chase, Wells Fargo, and Bank of America (Polselli's wife's bank and two other banks where Polselli's law firm had accounts). But the IRS didn't notify Polselli's wife or the law firm that it was trying to obtain the banking information.

- The IRS can issue a summons to any person when the agency needs information that could "aid in the collection" of federal tax owed. That information can include books, papers, records, or other data. In some cases, it can also involve testimony under oath.
- However, the statute's plain language does not require the IRS to give notice when the agency's efforts involve collection from a tax assessment or judgment against a taxpayer.
- That can be confusing because, in some circumstances, the IRS is required to give notice of a summons.

Note on IRS investigation vs. IRS collection: When the IRS issues a summons to determine whether a person owes taxes, the agency generally must notify the parties named in the summons(es). Those parties can then try to quash the summons (i.e., file a motion to have it voided or set aside).

But this case dealt with whether the IRS must give notice of summonses to third

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interest in their records.

A lower court agreed with the IRS as did Courts of Appeal for the 7th and 10th federal circuits. But the 9th Circuit Court of Appeals found that an exception should apply essentially because Polselli didn't have a legal interest in his wife's and attorney's bank records. However, following the plain language of the statute, the Supreme Court ultimately resolved the split among the circuit courts and ruled in favor of the IRS.

Bottom line: What to do if you owe the IRS

Although the Polselli case involves important questions about privacy and notice, it also raises practical questions about how to pay if you owe the IRS taxes or what to do if you can't pay the IRS. Given that the agency has significant resources at its disposal (including the power to issue bank summonses) to collect a tax debt that you owe, it's usually a good idea to pay the IRS taxes you owe on time or as soon as you can.

But what if you can't pay the IRS? The IRS offers options including agreements to pay your taxes within a certain amount of time. Payment plans and installment agreements can be as short as 11 days or as long or longer than 120 days.

If you are a business that owes \$25,000 or less in taxes from the current and previous calendar year, you can usually pay what you owe in 24 monthly payments. Many of these payment options can be set up online on the IRS website.

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