

Chapter 1

Basic Information

The chances are, if you are reading this book, you are an individual or small business owner who is having trouble with the IRS. This means that, at least right now, the IRS is your opponent in a battle that could be as devastating to you as a disaster such as a tornado or fire. To be able to deal successfully with an opponent, you have to know who, or what it is. Otherwise, you are just fighting blind, and your odds of a good outcome are low.

On the other hand, if you learn some things about your opponent, find out how they operate, what their employees are looking for, learn what your rights are, what the IRS can legally do, and what they cannot do, you *can* defend yourself.

Throughout the book, I will include illustrations from real life to help you relate the technical material in this book to your own personal situation. Since I do not want to violate the confidentiality of any of my clients, the people described in this book are fictional. However, every scenario in this book is based on my experiences with real individuals and real IRS employees.

IN CASE OF EMERGENCY

If your pay checks or social security benefits are being seized by the IRS, your number one goal is going to be to get the levy released and start getting your full checks again. Other considerations are secondary until you get the levy released.

The red boxes you'll see throughout this book contain the instructions you need to deal with emergencies such as a levy on your pay check or bank account. Even if you are severely pressed for time, you need to read and follow the instructions in the red boxes.

You will also need to read the chapter(s) that tell you how to fill out any forms you will need to submit to the IRS. You can find the line-by-line instructions in Part 4 of this book.

How To Use This Book

If the amount of tax you owe is more than you can easily afford to pay, you should read every section of this book. But if you are in an emergency situation such as a levy on your pay check, you won't have time for long-term planning until after you have dealt with the emergency.

For people who have more time, I recommend going through this book cover to cover. You will still take the steps shown in the red boxes, but you will be able to use the other information to your advantage. If you are in an emergency situation right now, use the instructions in the red boxes to get yourself out of the emergency first, then come back later and work through the whole book. There is a [glossary](#) in the back of the book and on our website, with definitions of legal and tax terms.

Tony the Building Contractor

“They can’t do this to me! I worked too hard to build up this business. They can’t just take it away from me like this!” The burly man slams his fist down on my desk, sending the IRS Notice of Seizure fluttering to the floor. His wife Anna covers her mouth with a trembling hand. She looks like she’s about two seconds away from bursting into tears.

Tony started doing construction work in the summers when he was in high school. He enjoyed the work, and after he graduated he got a job with a company that specialized in large commercial buildings. When he was 24, he started his own business doing mostly residential construction. For the first couple of years he made barely enough to buy food and keep a roof over his head, but the third year was not bad. After that, things kept getting better. By his 30th birthday, he and his wife Anna had a little boy and a beautiful house with a large yard where the children and their friends could play.

When Tony’s and Anna’s second child Clare was only 11 weeks old, disaster struck. The owner of one of Tony’s largest projects did not pay a draw on time, and Tony was not able to pay all his subcontractors and his three-man crew. He was able to talk his subs into taking partial payments, but his crew needed their pay checks. It was all they had to live on. So Tony did what he thought he had to do: he cut full paychecks for his employees. This used up 100% of the money he had available, so he was not able to make his payroll tax deposit when it was due. This was the way the snowball got started.

Things kept getting worse, the snowball kept growing. Fewer people were building houses. Tony’s tax debt grew to more than \$40,000, but Tony was not willing to give up. He took out a line of credit with his bank, just to keep going. His cashflow still was not nearly what he needed, so he continued to make payroll but not send in his payroll tax deposits. Nasty letters from the IRS started showing up in his mailbox. Tony figured there was nothing he could do about the tax debt anyhow, until he got back on his feet, so he ignored the letters. After a while he did not even bother to open the envelopes.

Then one day, Tony's banker called to let Tony know that the IRS had levied on his bank account. All Tony's pay checks bounced that week. Tony had to liquidate his retirement plan to replace the checks. He opened an account in a new bank, and this bought him some time. The IRS did not know about the new account, at least not yet. So Tony felt safe running his business for a little while longer. If he could just get one big job ...

Then one day an IRS Revenue Officer showed up at Tony's home. Now Tony is sitting in my office, and I'm wishing he had come in a year and a half ago. The IRS wants to take his trailers, his most expensive power tools, even his back hoe that he just finished paying for 3 months ago. All they want to leave him are a few hand tools.

"They can't do this to me. Can they?" says Tony, his face contorted with anger and fear.

Your Situation

My hope is that you have found this book before things have gotten as bad for you as they were for Tony. But there was hope even for Tony, and there is hope for you as well.

General Rules for Dealing With the IRS

Rule No. 1: Never, ever ignore correspondence from the IRS!

Rule No. 2: Always keep copies of anything you send to the IRS and all written correspondence from them. When you send a letter or payment to the IRS by mail, always get a certificate of mailing and staple it to a copy of the letter or copy of your check and payment voucher.

Rule No. 3: Treat the IRS employee you are talking to the way you would want to be treated yourself. Even though the IRS is your opponent, the person you are talking to is a human being doing a job so they can eat and pay their bills. Like anyone else, they're going to be easier to deal with if you're polite to them.

Rule No. 4: You want to cooperate with IRS employees and give them the information they ask for, if it is relevant to your case. But do not ever volunteer information that hasn't been requested. If they ask for the amount of your pay check, tell them, and then stop. Even if there is an uncomfortable silence, just stop and wait for them to move on to the next item on their list.

Rule No. 5: Always get the name and badge number of anyone you talk to, and the date and time of your call. Take detailed notes of your conversation.

Don't Let the Tax Debt Ruin Your Life

There is no way being in debt to the IRS can be called a positive experience. But I have had many clients who benefitted in the long run from the financial planning knowledge and experience they gained from dealing with a tax debt.

This is a practical, how-to book, so a lengthy philosophical discussion on the nature of government or the fairness of our present tax law would be out of place. However, many of the clients who have come to me over the years have been incapacitated to some extent by feelings of fear or shame. You need to be able to focus 100% on working out a solution to your tax problems, so it's worth spending some time identifying emotions that might prevent you from thinking clearly.

A first step in dealing with the IRS is to honestly assess your feelings about your tax debt. If you feel ashamed about it, or scared, acknowledge your feelings. Try to identify the reasons for your feelings. Below are the reasons I hear most often from clients whose tax debt makes them feel afraid. Sometimes people are afraid of something that's never going to happen. Some of the fears are valid, but once you clearly identify them, you can deal with them and figure out what to do to minimize the damage.

1. "I'm afraid I'll go to prison." Owing back taxes is not a crime. Some tax protestors have been charged with willfully refusing to pay, but you have to go to extremes to get into this kind of situation. If you just got behind on your taxes and don't have enough money to pay them, you can scratch criminal charges off your worry list.
2. "I'm afraid they'll take my home, and I'll be out on the street." The Taxpayer Bill of Rights has made it very hard for the IRS to take a person's home. They may put a lien on your home, but it's very, very rare for them to foreclose on a person's home.
3. "I'm afraid they will garnish my pay check." This is one of the valid fears. The IRS can, and does use its levy power to take the greater part of people's pay checks. The main reason they do this is to get the attention of people who have not responded to notices. Once they have your attention, they will negotiate with you to work out terms you can live with. If you act soon enough after you receive a Notice of Intent to Levy, you can avoid a levy altogether.
4. "I'm afraid they'll take my life savings." Unfortunately, they can take your savings, even your retirement plan in some cases. There are steps you can take to protect your assets, but you need time for this. By the time the IRS has filed liens and issued notices of levy, it's probably too late. Having the IRS take money you've saved up is not something to celebrate, but at the same time, it's not the absolute end of the world either. You will be free to begin building up your savings again once you get this crisis behind you.
5. "I'm afraid I'll be paying them for the rest of my life." This is not going to happen. The IRS has ten years to collect a tax. Certain things, such as bankruptcy or an Offer

in Compromise, can extend the time, but even then the extension is usually only a few months or at most a year or so. After the Statute of Limitations period passes, the IRS can no longer try to collect the tax, and they are required to file releases on lien notices.

Shame is more difficult to talk about than fear. To address it properly would require getting into a discussion of morals, the proper role of government, social “contracts,” human nature, etc. ... etc. ... You could fill an entire library with discussions on these topics. Personally, I think our federal tax law as a whole is unfair and the Tax Code is largely incomprehensible. I do not believe people should be required to obey a law no one can even

understand. I will not even attempt to address constitutional issues here, and I would never advise my clients to be tax protestors. If you do not like the present tax laws, complain to your representatives in Congress and try to persuade everyone you know to do the same. As long as we are free to speak and to vote, the best way to deal with unfair laws is to try to change them, not disobey them.

The reason I need to address shame at all is that a surprising number of people with tax debt feel ashamed about it, and shame can work against you when you are negotiating with the IRS. Sometimes people get behind on their taxes because of something that was entirely out of their control. For example, I had a client who had been using the same payroll service for years. He would write a check to the payroll service to cover payroll and payroll taxes. The payroll service got into financial trouble, and instead of paying my client’s employees and payroll taxes, the payroll service’s owner stole the money. The IRS still expected my client to pay the payroll taxes. The only mistake my client made in this case was to trust the wrong person.

Most of the time, though, the reason people get behind on taxes is that they make financial mistakes. The most common mistake I’ve seen over the years is taking on too much debt. For example, a married couple I’ll call the Smiths buy a house they can barely afford with both husband and wife working full time. Then Mr. Smith loses his job. He is able to find another job, but it doesn’t pay as much. The Smiths no longer have enough money to pay all their bills on time. Every week is a gut-wrenching balancing act, deciding which bills are the most urgent and which ones they can let ride for a while longer. In desperation, Mr. Smith increases the number of exemptions on his W-4, so his employer will withhold less income tax. Mrs. Smith, who is self employed, does not send in her quarterly estimated tax payment.

The original mistake the Smiths made was using too much credit and not leaving themselves enough cushion for hard times. They are compounding their mistake by not paying their taxes. What the Smiths are doing amounts to taking out a loan from a creditor (the federal government) that has far more power over them than a normal creditor. For example, a normal creditor cannot take their retirement plan. The IRS can. It would have been better to default on their credit card payments than to get behind on their taxes.

To get out of the hole they are in, the first step the Smiths need to take is to admit they made a mistake. The second step is to realize that everyone makes mistakes sometimes, and that almost all mistakes can be corrected. The third step is to stop digging the hole deeper and start climbing out. In order to think clearly about how to get out of the hole, the Smiths need to look at the mistake they made as a learning opportunity, not something to feel ashamed about

Getting behind on your taxes is a fixable mistake. It is an inconvenience, maybe a major inconvenience that will force you to change the direction of your life. But it is not the end of the world. I can tell you from many years of experience that close to 100% of the time, people are able to work things out so that paying off the back taxes is no more than a moderate inconvenience.

IF YOU NEED ADDITIONAL HELP

Helping people get out of trouble (and stay out of trouble) with the IRS is what I do for a living. I wrote this book so people could help themselves and save the money they would have paid in legal fees. In most cases, if you are an employee or self employed individual, the information in this book will help you work out a payment plan, hardship deferment, or Offer in Compromise with the IRS. But occasionally, people run into greater than usual obstacles. If you need additional help, from a short email consultation to full representation, we are here for you. Contact us at IRS.Collections@barbara-lamar.com or call 210.223.9389. See page 96 for the special rate we offer to people who have bought this book.

If you find that you are dealing with someone from Criminal Investigation, you should immediately retain the services of a lawyer. This book deals only with civil cases.