

# TALK TO THE EXPERT

By Howard Levy, JD

## The First Steps in Helping a Client with IRS Collection Problems

**Y**our client has just been contacted by an IRS collections employee, and has called you to get him out of a bind. Fear and anxiety best describe your client's current state of mind.

He fears jail. He is anxious over losing all his possessions to the IRS: his clothing, household belongings, his car, even his house. He has heard stories about the IRS from the media, friends, or co-workers, and he believes that all will be lost. He is self-employed and

owes the IRS over \$100,000 in income taxes.

Where do you start with a justifiably frazzled taxpayer?

The following is a step-by-step approach to transforming a stressed taxpayer into a satisfied client.

### STEP 1

Take away the fear and replace it with reality.

Earn your client's trust by setting him straight on the reality of his fears. The tall tales he has heard of the "awful IRS" are usually exaggerated and, at best, isolated. An educated client is the best client, so turn the focus and energy to what's real, not what's believed to be true about losing everything. Separate the myth from the reality and alleviate the anxiety.

Inform your client that most IRS collection cases are just that—collection cases; serious matters, but rarely criminal. The

IRS collections employee is not a criminal investigator. The IRS sends very few taxpayers who owe money to jail—even if the IRS wanted to, they could not; the resources simply do not exist. Almost every collection case is a civil matter of collecting back taxes. The IRS collections employee simply wants compliance. IRS collections wants your client to remain current on his tax obligations, to secure a financial statement to determine a repayment plan on the back taxes, and to close a case file.

Putting a taxpayer out on the street or taking away his transportation to get to work or the grocery store is bad publicity for the IRS. Assure your client that in most situations the focus is not on hard assets. On average, the IRS makes only 700 seizures of real and personal property (cars, houses, business equipment, etc.) every year. Out of millions, that is an extremely low number. Use the numbers to illustrate to your client that his risk of loss is probably not real or personal property.

## STEP 2

### Educate your client on the reason the IRS is likely not interested in his clothing and household goods.

It's simple: Internal Revenue Code Sec. 6334(a) provides what is known as "exemptions" to the IRS' collection power. Think of exemptions as protections. Every taxpayer has \$8,790 in exemptions (inflation adjusted for 2013)—or IRS protections—in clothing and household goods.

Your client's stuff is usually not what the IRS is interested in, in part because it is prohibited by law from taking it. A client will appreciate knowing this and will rest a little easier.

IRC Sec. 6334 also gives self-employed clients protection as to tools used in

a trade or business, exempting up to \$4,400 in value from the IRS seizure process.

Your client will feel better knowing he should be able to keep his clothing, personal household goods, and tools of the trade.

## STEP 3

### Briefly review with your client why cars and houses are also not likely to be seized.

Household goods are not the only property that enjoys legal protection from IRS seizure. IRC Sec. 6331(f) prevents the IRS from making uneconomical levies. Uneconomical levies are those which will result in no recovery to the IRS. Explain to your client that the Internal Revenue Manual (IRM) mirrors the IRC in regard to uneconomical levies. IRM 5.10.1.2 states that seizures are prohibited where "the taxpayer has insufficient equity in property—there must be sufficient net proceeds from the sale to provide funds to apply to the taxpayer's unpaid tax liabilities."

In other words, the IRS is barred from making low- or zero-equity seizures on real or personal property, including business tools and equipment.

Before your first consultation, ask your client to do his best to list his assets: cars, houses, equipment, and tools of his business. Request that he estimate the value if sold to a willing buyer (be careful as many clients' knee-jerk reaction is to list the replacement value, not used value). This can be supplemented with Kelly Blue Book valuations for cars and county tax values

for real estate. Then reduce the value by 20 percent to get to what the IRS calls "quick sale seizure value," and subtract what is owed on any loans.

In most cases, even a little equity is usually not sufficient to whet the IRS' appetite for seizure; the equity has to be fairly significant to deprive a taxpayer of essential elements of living (cars, business equipment, houses) and then only after consideration of other collection alternatives and any hardship the seizure would cause.

## STEP 4

### Help your client figure out if the IRS is even in a position to levy.

Your client's fears cause him to believe that the IRS can do whatever it wants, whenever it wants. This is not true. There is a process the IRS must follow before it can levy. Inform your client that the IRS has to give him notice before being able to levy. That notice is called a Final Notice of Intent to Levy and Notice of Your Right to a Hearing. In most situations,

the IRS cannot levy or seize until this notice is sent—and for thirty days thereafter. This includes real property, personal property, wages, and bank accounts.

For that first meeting, ask your client to bring with him any IRS letters he has received. These letters may or may not have already been opened by your client. (Yes, the fear

is that crippling.) Ask him if it's okay to go through the letters. This mail will tell you a story—what's owed to the IRS and whether a Final Notice of Intent to Levy has been mailed. As your client's notices may not be complete, his mail should be supplemented with review of an IRS account transcript to determine if/when the Final Notice has been issued.

If the IRS has not issued the Final Notice, put your client's fears to rest; there cannot be any levy without a jeopardy situation. If there has been a Final Notice, you have thirty days after the date of the notice to file a collection appeal, which would stop levy action. If the Final Notice was issued more than thirty days ago but less than a year, you can still file for a late hearing, known as an equivalent hearing.

Either way, your client will take comfort in knowing you have his back if the IRS is not in a position to levy because the required notices have not been sent.

Client relations are enhanced by educating your client about the reality of the IRS seizure process. Help clients understand what assets the IRS cannot or will not seize.

Most taxpayers are unaware of the protections they have and are very appreciative of knowing their rights. It is often not as hopeless as they feared.

And as a bonus, the information you give your client may just come in handy in explaining the same taxpayer rights to the IRS collections employee you will be working with. Now that's a win-win. **EA**

#### About the Author:

**Howard S. Levy** is a former trial attorney for the IRS and an instructor at NTPI. He has over 20 years' experience in IRS collection proceedings, Tax Court litigation, IRS administrative appeals, and the use of bankruptcy to resolve IRS controversies. Howard is a member of Voorhees & Levy LLC in Cincinnati, Ohio. He can be contacted at [howard@voorheeslevy.com](mailto:howard@voorheeslevy.com) or at [www.howardlevyirslawyer.com](http://www.howardlevyirslawyer.com).



## WHY WE'RE DIFFERENT.

We are different because we can produce the best results for YOU.

Give us a call today so that we can start working to remove your selling headache and to obtain the goal you desire.

**1-888-847-1040**

[www.AccountingPracticeSales.com](http://www.AccountingPracticeSales.com)  
Free Registration For Buyers



**ACCOUNTING  
PRACTICE  
SALES**

NORTH AMERICA'S LEADER IN PRACTICE SALES

# Tax Professionals

## Professional Liability Coverage

Errors & Omissions

Serving thousands of tax professionals nationwide since 1981.

Let our experience work for you

#### AVAILABLE COVERAGES AND FEATURES INCLUDE BUT NOT LIMITED TO:

- Tax Services
- Tax Audit Representation
- Bookkeeping
- Accounting Services
- Payroll Services
- Notary Services
- Circular 230
- Tail Options
- Defense Costs Outside of Limits
- Prior Consent to Settle
- Crisis Event Expense Reimbursement
- Trustee Coverage
- Investment Advisor Coverage
- Pre Claim Coverage
- Free Legal Risk Management



**Network and Information  
Security Offense Coverage**



**Dineen Huft**  
Insurance Administrator

(toll-free)

**877-877-0770**

[www.taxproeando.com](http://www.taxproeando.com)

Lic # OC66701

# PLACER

INSURANCE AGENCY

Premier Agency Inc. DBA Placer Insurance Agency.

5 Sierra Gate Plaza, Second Floor  
Roseville, CA 95678 • fax 916-784-8116

\*The intent is to give an indication of the coverage afforded. It is not a complete description. The policies are available for your review and are the final interpretation of coverage.