DON'T IGNORE THOSE IRS NOTICES!

January 20, 2020

By: Bryan S. Appel and Mitchell W. Goldberg

When people think about the IRS, they tend to think about how powerful the IRS is and how the IRS may take all your assets. While the IRS does have a long reach, as it may seize assets and levy on bank accounts, the IRS has to jump through several procedural hurdles first before it may do so. These procedures, including appeal rights and the right to go to court without paying the additional taxes proposed, are designed to protect the taxpayer. However, don't ignore those notices IRS sends in the mail. If you ignore these IRS notices, you will lose out on these procedural rights and throw the IRS door wide open to come and take your assets.

After an IRS examination, the IRS will provide a report setting forth the proposed adjustments. However, the IRS can't just assess the tax and immediately look to collect. The IRS must first issue a Letter 5891, which is commonly referred to as the "30 Day Letter" because it gives the taxpayer 30 days from the date of the letter to file a protest with the IRS Independent Office of Appeals to challenge the proposed adjustments. The IRS Independent Office of Appeals is an informal administrative proceeding within the IRS, and independent of the examination function, where disputes may be resolved without the time and expense of litigation and without having first to pay the proposed taxes owed. Specifically, an Appeals Officer has the authority to settle disputes based on hazards of litigation, which is not the case with a revenue officer at the examination stage.

If a taxpayer ignores the 30 Day Letter, then such taxpayer loses such taxpayer's right to go to Appeals. However, the IRS still does not have the right to assess the tax and look to collect it. The IRS then has to issue a Statutory Notice of Deficiency (the "SND"). The SND gives a taxpayer 90 days from the SND date to file a petition to the Tax Court to challenge the assessment proposed by the IRS. The Tax Court is the only court with jurisdiction to hear a federal tax claim on a pre-assessment and pre-payment basis.

Suppose a taxpayer ignores the SND upon expiration of the 90 day period. In that case, the IRS now has the authority to assess the taxes, penalties and interest it proposed way back at the conclusion of the examination and take collections actions against the taxpayer. If a taxpayer now wakes up, smells the coffee and wants to challenge the taxes owed, subject to minimal exceptions beyond the scope of the article, the taxpayer would have to pay the entire amount owed, file for a refund, have the refund denied, and then file a claim in the United States Federal District Court or the Court of Claims. This can often be cost-prohibitive to a taxpayer, thereby leaving the taxpayer with a tax bill that should have never been. Both IRS Appeals and the Tax Court (which each permit a taxpayer to challenge on a pre-payment, pre-assessment basis) are off the table because the taxpayer ignored the applicable IRS notices. By neglecting those IRS notice, a taxpayer can lose out on valuable procedural rights.

Mitchell W. Goldberg and Bryan S. Appel represent taxpayers before the IRS in connection with audits, appeals, and other administrative matters. For more information, please feel free to contact them at mgoldberg@bergersingerman.com and bappel@bergersingerman.com

Related Practices

Taxation

Related Practice Teams

Business, Finance & Tax

Related Team Member(s)

Bryan S. Appel

Mitchell W. Goldberg

Topics

IRS

Taxation

Internal Revenue Service