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When the Tax Man Cometh

There are few things which will drain the color from one's face like opening a letter from the Internal Revenue Service demanding immediate payment of taxes, penalties and interest. Even though the "kinder and gentler" IRS has been restructured, having to respond to a tax claim is a daunting prospect for most people. The second reaction (after becoming visibly pale) should be to seek professional help.

Federal tax controversies, whether in the individual, corporate or estate setting, are governed by a maze of tax laws, Treasury Regulations, and administrative and procedural rules which can be overwhelming to the most knowledgeable taxpayer. Still, the process of resolving these claims can be summarized by the following events.

THE LETTER

Once the IRS advises you of their claim (in many instances, taxpayers are already aware the letter may be coming), you have a small window of time in which to respond. There are thirty-day letters and ninety-day letters, and your advisor can determine the initial response required by reviewing them. If you owe the money, prompt payment will limit the interest from accruing on the tax payable. However, if you wish to dispute the tax bill, you need to get the necessary documents and factual background to your team: your accountant and/or your attorney. This information is crucial to help them defend your position. Remember that matters discussed with your lawyer are protected by the attorney-client privilege, and limited confidentiality is preserved with your accountant under recent legislative changes.

THE RESPONSE

Once your team completes a procedural, factual and legal analysis of your case, you may: (1) protest the tax; (2) make an offer to settle with the agent; (3) file a petition with the U.S. Tax Court; or (4) pay the tax and file in U.S. District Court for a refund. (Appeals to the Claim's Court, U.S. Court of Appeals and U.S. Supreme Court also are possible). There are many procedural variations on these options, and experienced guidance is essential in these stages. Unforgiving procedural deadlines can close off opportunities to defend your claim.

THE REALITY

Most tax controversies do not require a full-scale legal battle with the Service to be resolved. The reorganization of the IRS under the IRS Restructuring and Reform Act of 1998, along with the enactment of the Taxpayer Bill of Rights (see insert), provides an improved framework for prompt resolution of most claims. However, skilled advocacy, combined with advice from experienced advisors and strict observance of the rules governing the litigation and appeal procedures, will place you in the best position to prevail in these matters, should the IRS letter arrive.

Notice - This information is not legal advice or counsel absent an extant attorney-client relationship with the recipient; this information does not create an attorney-client relationship. Seek legal counsel before taking any action on the matters referenced above.