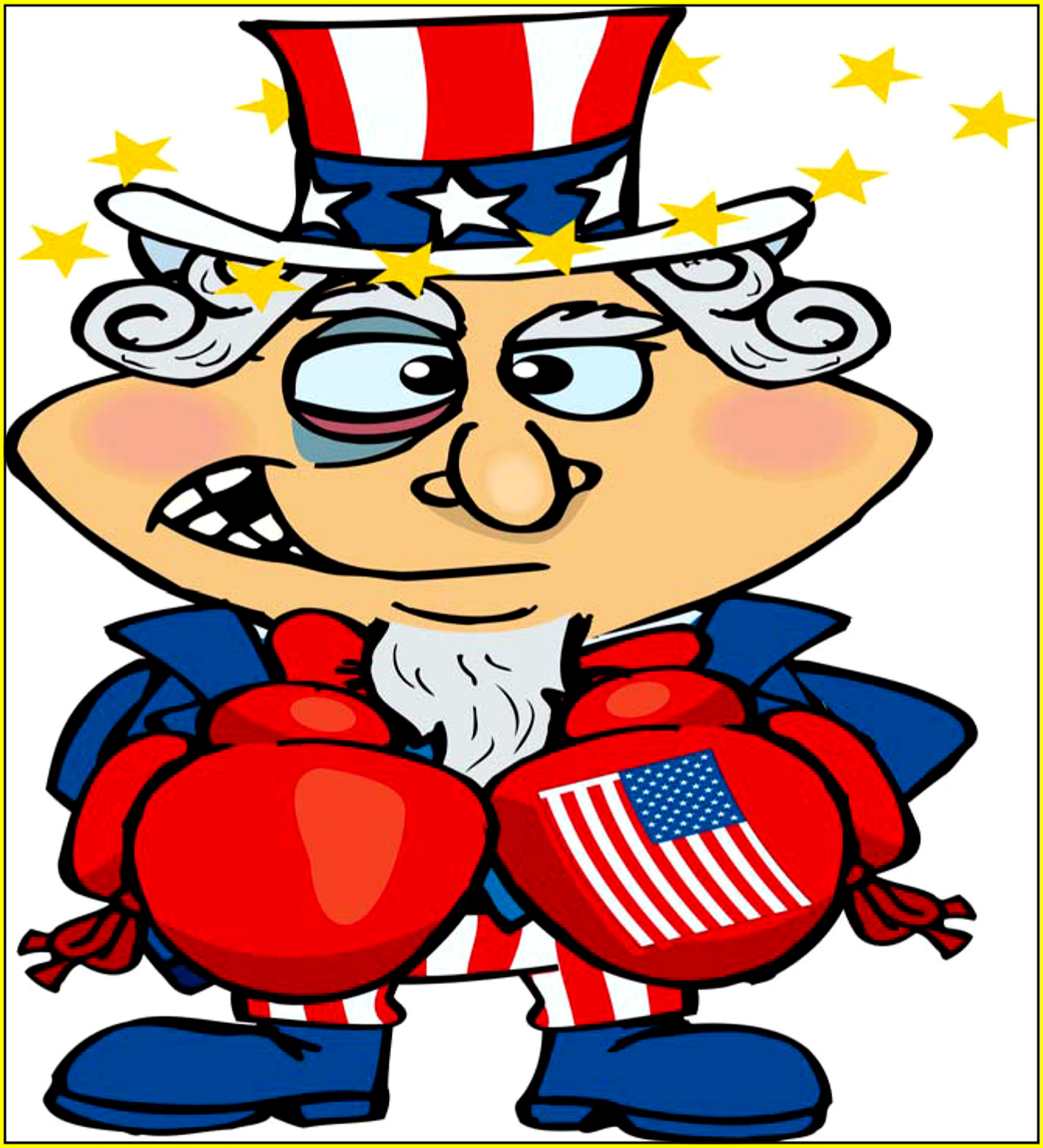

Fighting the Taxman

The Truth About Settling your
IRS and Maryland Tax Debt

By
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Fighting the Taxman

The truth about tax resolution
and settling your income tax debt
with the IRS and Maryland.

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Introduction

Why this book was written

You are probably reading this because you owe tax debt and are wondering how you can possibly get some relief and get your life back on track. You may be facing garnishment of your hard earned paycheck, a freeze on your bank account, or a tax lien on your home and you don't know where to turn for help. Unfortunately there is a lot of information out there about tax debt and the IRS that is misleading, outdated or just plain wrong.

My name is Jim Logan and I wrote this book to give you the straight facts about settling your tax debt. I have been helping people in Maryland file for bankruptcy for almost 20 years and have filed over 4,000 cases. This book answers the most common questions I have been asked over the years and lets you know what relief is available to you today. You can read this book in the privacy of your own home and then make an educated decision about how to handle your tax debts.

What this book is:

This book is meant as a general discussion of income tax debts and the issues that most commonly arise. The information contained here is general in nature and meant to apply to a wide variety of situations. There are many, many things that can come up when dealing with the IRS and Maryland taxes that may not be covered here, mainly because they rarely come up.

What this book is not:

This book is not legal advice, nor does it create an attorney - client relationship. Until you agree to hire me AND I have agreed, in writing, to take your case, I am NOT your lawyer. I am licensed only in Maryland and the Federal District Court for Maryland. I have no liability nor responsibility to any person or entity with respect to any loss or damage caused or alleged to be caused directly or indirectly by the information covered in this book. Whew, is that enough legalese for you?

Dedication

A special thanks to my wife Michelle for inspiring me. And also to Renee, Betty, Leslie, Ken and Robin for all their hard work in the office and help with my clients.

Table of Contents

Fight Back Against The Taxman

A Step-By-Step Guide To Getting Out Of Tax Debt And Reclaiming Your Life

Every year, millions of honest, hardworking Marylanders find themselves owing the IRS and state of Maryland for income taxes. If you find yourself in this situation, know that you are not alone. Your opening this book is the first step to getting yourself out of tax debt, and taking back your life.

The Great Recession depressed the incomes of millions of Americans, leaving many small businesses, contractors, and individuals with no other option than to fall behind on paying their income taxes in an attempt to stay afloat. If you're reading this book, you are probably among this group. You have likely been using your tax money to pay more pressing bills in order to keep your home out of foreclosure, car from repossession, and lights from being shut off. It was probably quite an easy decision to put off the tax man. After all, you'd pay it back when things picked up, right?

The IRS estimates about $300 billion in individual income taxes go uncollected every year. Much of this is due to honest taxpayers burying their heads in the sand and not filing their returns because they thought they would owe. The first time they skipped filing, they may have worried that the IRS would come knocking at their door. But this doesn't usually happen, and so it became easier to skip filing the next year and the next and the next…

But the good news is there is relief from the IRS and MD available for all upright taxpayers. You *can* get a fresh start. And if you take only one thing from this book, let it be this: **The only way to get any relief from the IRS and MD is to file all required tax returns.** Even if you owe money and cannot afford to pay it, you should prepare and file all your unfiled returns. Once filed, you can start to negotiate with the IRS and MD.

CHAPTER 1

Settlement Firms: The Truth Behind Those TV and Radio Ads

If you're seeking help to resolve your tax debt, and you see or hear an ad from a tax settlement company pop up, think twice before reaching for your phone. By law, the only people who can give you advice on how to settle your debt to the IRS are Enrolled Agents, CPAs, or attorneys.

There's an entire industry dedicated to helping taxpayers deal with the IRS, and it was borne out of the fear that many people have of facing the IRS on their own. Companies that operate in this area are known as "tax settlement" or "tax resolution" firms. As with any industry, there are the good, the bad, and the flat out scam artists. Since you hopefully only need to deal with the IRS once, you may not be aware of what to look for to determine who can help you, and who will simply take your money and run.

The first thing to understand is that there are a lot of companies competing for this business. That is why you see and hear so many TV and radio ads. But these ads are generally not run by the companies that actually provide the help. Instead, they are "lead generation" ads. Let me explain. When you call that number on your TV screen, you are connected with a sales rep whose primary job is to get your contact information. You become the "lead". This lead is then sold to the firm that actually provides the tax resolution service. Because the firm pays for each lead - regardless of whether they actually get hired or not - in order to make money, the firm has to convert as many leads as possible into paying customers. So they will try very hard to get money from you!

What's more, once you have given your contact information, you will be contacted by someone who may or may not be authorized to give you advice. Here's a real example for you. Head over to www.irs-tax-settlement-hq.com. Scroll down to the bottom of the page, and you will see this statement: “The IRS-Tax-Settlement-HQ.com website is used as an advertising and marketing tool to connect taxpayers for tax resolution services.” Did you get that? They will connect you with some unknown third party for tax resolutions services. Is this really what you want?

By law, only Enrolled Agents, CPAs, or attorneys can give you advice on how to settle with the IRS. Many companies in the tax resolution industry use commission-based salespeople to make the initial contact and get you to sign up for their service.

You should also keep in mind that many taxpayers who owe the IRS (which is nationwide), also owe state taxes. A tax resolution company may not be able to help you with your state taxes, or may not have a representative located closeby who can meet you face to face to discuss your case.

Finally, depending on your circumstances, a tax resolution company may not be putting forward your best option. You see, many tax settlement companies heavily advertise the “pennies on the dollar” option for tax relief. It makes sense, since most people just want to pay the IRS as little as possible and move on with their lives. This option is what the IRS calls an Offer in Compromise (OIC).

We’ll deal more extensively with OICs in a later chapter, but for now, here’s what you need to know:

1. Before the IRS accepts an OIC, they require extensive financial documentation from you.
2. If you have assets or income, you probably will *not* be paying pennies on the dollar.
3. If you do not have assets or income, there may be better options for you that will solve your tax problem <u>without having to pay thousands to the tax relief company</u>.

And here are some IRS stats you should be aware of when deciding how to resolve your tax debt:

- About 7 million returns were filed in 2015 with taxes owed.
- About 3 million people did nothing, letting their taxes, penalties, and interest pile up.
- About 4 million people worked with the IRS to resolve their tax problems. Of these 4 million:
    - 3,066,550 (about 75%) resolved their tax issues with an Installment Agreement (IA), which means they agreed to pay the full amount owed in monthly payments;
    - 1,073,811 people (about 25%) qualified for Currently Non Collectible (CNC) status, meaning they could not even afford one monthly payment;
    - 66,000 people submitted OICs, of which the IRS accepted about 26,663 (less than 1%);
    - The IRS also accepted 48,854 (slightly more than 1%) partial payment IAs, where the taxpayer agreed to pay less than the full amount owed to the IRS.

So if we add together the 26,663 accepted OICs and 48,854 accepted partial payment IAs, only 75,517 out of about 4 million people paid less that the full amount owed to the IRS!

THE BOTTOM LINE: You are probably not going to settle your debt with the IRS for pennies on the dollar. If you owe the IRS and you have income, you are almost certainly going to be making payments to resolve the debt. If you don't have any income and you let the IRS know this, then you have a very good chance of the IRS leaving you alone by requesting CNC status. Over 1 million people qualified for CNC status in 2015, which means they won't be kicked by the IRS when they are down!

If you need help resolving your tax debt, talk to a professional who is authorized to give you advice, knows what your options are, and can help you determine the best one for your particular circumstances.

How to avoid getting scammed

Here are some guidelines to help you protect yourself:

Avoid firms that require high upfront fees.

Avoid firms that use high pressure sales tactics

Avoid firms that advertise”Pennies on the dollar”

Choose a local firm where you can meet face to face.

Make sure you deal with both your IRS and Maryland tax issues.

CHAPTER 2

How to make a "Fresh Start"

In order to begin resolving your tax debt, the IRS requires that you file all required returns for the preceding 5 years. It's also a good idea to do the same if you owe state taxes, so MD doesn't do it for you...

If you want to get out from under the IRS and state of MD, before anything else, you must get all your required returns filed. Why? First, the IRS will only negotiate with you once you have filed all your returns. MD, on the other hand, is more than happy to set up a payment plan with you even if you don't file your returns. They will just estimate your taxes and let you pay what *they* think you owe! Translation: It's a good idea to file your MD tax returns as well.

Second, you may be entitled to a refund, and if you don't file your taxes for three years, you will lose your right to collect this money! I have had many clients lose out because they did not file their returns in time, so don't let this happen to you.

Third, the IRS may have filed a substitute for return (SFR) on your behalf, and assessed you much more than you really owe. When the IRS thinks you have income and doesn't see that you have filed a return, they can prepare one for you. The thing is, the IRS doesn't give you any deductions or credits, so you end up with a much larger tax bill. By filing your own returns, you may reduce or eliminate your tax debt.

Fourth, by filing the returns, you start the clock ticking to eliminate taxes in bankruptcy. Taxes more than three years old may be wiped out in bankruptcy, but ONLY if you have filed your returns. This may be the only way you can get out of MD tax debt. (We'll cover this in much more detail in Chapter 8.)

Does it make sense to file federal tax returns that are more than 6 years old?

It may not. The IRS does not require you to file them and you might just be opening up a can of worms by doing so. According to the time limits (statutes of limitations) set out by federal law, the IRS can only bring **criminal** charges against you within six years of the date the tax return was due. For example, after April 15, 2016, you can't be prosecuted for failing to file a 2009 tax return that was due on April 15, 2010.

There is no deadline, however, for the IRS going after you and imposing **civil** penalties - in addition to any taxes owed. So while you can't be put in jail for not filing a 1988 tax return, you will forever owe the IRS a return, as long as you earned enough to have had an obligation to file. And the fines - which include penalties and interest - on unfiled tax returns run forever.

The good news is that the IRS doesn't worry too much about that missed tax return after six years and it usually won't pursue you for them. The IRS materials on Taxpayer Delinquency Investigations (*Internal Revenue Manual* 0021; IRS Policy Statement P-5-133) read as follows:

> **Taxpayers failing to file returns due will be requested to prepare and file (them). All delinquent returns … will be accepted. However, if indications of willfulness or fraud exist, the special procedures for handling such returns must be followed…. Factors taken into account include, but are not limited to: prior history of noncompliance, existence of income from illegal sources, effect upon voluntary compliance and anticipated revenue in relation to the time and effort required to determine tax due. Consideration will also be given to any special circumstances existing in the case of a particular taxpayer, class of taxpayer or industry.**

Normally, application of the above criteria will result in enforcement of delinquency procedures for not more than six years. Enforcement beyond such period will not be undertaken without prior managerial approval.

The IRS can still request a tax return for a period of more than six years ago, but if you tell the IRS that you don't have enough information to prepare a return, the agency will usually drop the request. However, if the IRS computer shows income information on you, such as a W-2 or 1099 form, the IRS may calculate and assess the tax anyway.

CHAPTER 3

How to Prevent Tax Liens

The IRS can file a lien against you for the taxes you owe, which will detrimentally impact the sale of your assets and your credit score. If you want to prevent a lien, either pay it off in full or enter into an installment agreement with the IRS.

The IRS can file a lien against you if you owe taxes. The lien is filed in the local courthouse of the county you live in, and attaches to all your property - both real and personal. So if you try to sell your home when it has a lien on it, you will be forced to pay the IRS before collecting any proceeds. In theory, if you sell any other assets, the IRS should get paid too (though as a practical matter, this rarely happens).

When a lien is filed, it becomes a matter of public record showing the full amount owed to the IRS. This information is routinely picked up by the various credit reporting bureaus, so federal tax liens will eventually show up on your credit report, negatively affecting your ability to get credit in the future.

How can I prevent a lien?

Paying your tax debt in full will prevent the IRS from filing a lien in the first place. If it's not possible for you to do so in one shot, you can set up an installment agreement. The IRS will not file a federal tax lien against you if you set up either a guaranteed installment agreement, which requires the outstanding balance be $10,000 or less, or a streamlined installment agreement, which requires the outstanding balance be $25,000 or less.

I owe more than $25,000 and can't pay it off in full immediately. Can I still prevent a lien?

You'll need to pay down the balance so that you're at $25,000 or less, at which point you can establish a streamlined installment agreement with the IRS.

Will the IRS notify me when they file a lien against me?

Generally, the IRS will send you a Notice of Federal Tax Lien *after* the federal tax lien has already been filed with your local county. Federal tax liens are effective beginning ten days after the IRS issues a written demand for payment of outstanding taxes.

How can I remove a federal tax lien?

The IRS will remove a federal tax lien if:

- The lien was filed in error (for example, the lien was filed against the wrong person);
- The outstanding balance is paid in full;
- The outstanding balance is otherwise satisfied (for example, through a successful offer in compromise); or
- The lien becomes unenforceable (for example, the lien has expired as the ten-year statute of limitations has run).

How does the IRS remove a federal tax lien?

The IRS can either withdraw or release a federal tax lien. The **withdrawal** of a federal tax lien means the IRS will rescind the lien, as if the lien was never filed in the first place. Lien withdrawals generally occur when the federal tax lien was filed in error. If a lien was filed in error, you should contact the IRS right away. An IRS agent will review your account history to verify that you don't owe the outstanding tax, and will prepare the paperwork necessary to withdraw the lien. The IRS has additionally instituted a Fresh Start program under which taxpayers may be eligible for lien withdrawal provided certain criteria are met (such as if your outstanding balance is under $25,000).

The **release** of a federal lien means that the lien no longer encumbers your property. Most federal tax liens are released by the IRS within 30 days of full payment, or upon setting up a guaranteed or streamlined installment agreement. Less frequently, the IRS may release a federal tax lien if that speeds up the collection of tax or it’s in the best interests of the taxpayer and the government. As a practical matter, the IRS should provide you with a copy of the lien release, which you can forward to the credit reporting bureaus to update your credit reports. Note that while county records will be updated to reflect your lien’s release, the fact that there was once a federal tax lien will remain on your credit report for up to ten years.

Now let’s review the different methods of resolutions available so that you can figure out which is best to get you out from under your tax debt.

CHAPTER 4

Offers in Compromise

If you can't pay your taxes in full, the IRS may agree to settle your tax debt for less than the full amount owed. Recently, the IRS has approved nearly 40% of just such OIC offers submitted. The catch? You need to make rigorous financial disclosure on application, submit a non-refundable 20% down of your offer with your request, and stay current on all your tax filing and payment obligations for the next 5 years if your offer is accepted.

What is an Offer in Compromise?

Offers in Compromise (OICs) are what those TV and radio advertisements I mentioned a few chapters ago were trying to sell you on. More specifically, an OIC is an agreement between you (the taxpayer) and the IRS that settles a tax debt for less than the full amount owed.

They aren't as common as those advertisements make them out to be though. To submit an OIC, you must complete detailed financial forms listing all your assets and income. The IRS will use this information to calculate your reasonable collection potential and decide how much to accept. Generally, you must make an appropriate offer based on what the IRS considers your true ability to pay. In 2010, the IRS accepted about 25% of offers submitted. This has increased to about 40% recently as the IRS tries to collect more money. Now may be the time to act. But first, let's talk about the downsides to OICs.

What are some downsides to OICs?

Because of the number of frivolous offers previously submitted, the IRS now requires you to put a **non-refundable 20% down** of your offer upon filing your request. If the IRS decides they do not like your offer, they will reject your request and keep the money, which will be applied to any taxes you owe.

Importantly, if your offer is accepted, **you must continue to stay current with all tax filing and payment obligations through the fifth year after your offer is accepted**. This is very important. You must keep up on your taxes after your OIC is accepted - or else it may be revoked and you'll end up owing the entire amount of your taxes.

Finally, don't think you'll receive instant approval or rejection of your offer. The IRS can take 12 to 24 months before it gets back to you with its decision.

Am I eligible for an OIC?

In order to be eligible, you must:

1. File all tax returns you are legally required to file;
2. Have received a bill for at least one tax debt included in your offer;
3. Make all required estimated tax payments for the current year; and
4. Make all required federal tax deposits for the current quarter if you are a business owner with employees.

Am I eligible if I am able to pay the full amount of my taxes?

Generally, the IRS will not accept an offer if you can pay your tax debt in full or through an installment agreement and/or equity in assets.

If I enter into an OIC, do I get to keep any refunds?

Generally, no. The IRS will apply those refunds to your taxes owed and will not consider it as part of your OIC.

What about penalties and interest?

Penalties and interest will continue to accrue during the consideration of your offer. After you file your offer, you must continue to timely file and pay all required tax returns, estimated tax payments, and federal tax payments.

What types of offers are there?

There are two types of offers. The first is a **lump sum cash** offer, which requires 20% of the total offer amount to be paid with the offer and the remaining balance paid in 5 or fewer payments within 5 or fewer months of the date your offer is accepted.

The second is a **payment plan** offer. This option requires the first payment (of 20%) to be paid with the offer, and the remaining balance paid within 6 to 24 months, in accordance with your proposed offer terms.

How does the IRS calculate the amount I need to pay?

The IRS is looking to get the maximum amount out of you, but it can't get more than what you have. To figure out what you can pay, they require you to fill out a Collection Information Statement. On this form, you must list all your assets, debts, income, and expenses. The IRS will look at assets including bank accounts, investment accounts, retirement accounts, life insurance, real estate, cars, and valuable property (artwork, jewelry, or collectibles). They do not care about your clothing, furniture, or other personal household goods. By adding all these up and subtracting any debts on them, the IRS calculates your Available Individual Equity.

Then the IRS looks at your income and expenses to calculate your Remaining Monthly Income. If you are making a lump sum offer, you multiply the Remaining Monthly Income by 12 and add it to the Available Individual Equity to calculate your Minimum Offer Amount. If you are making a payment plan offer, you multiply the Remaining Monthly Income by 24 and add that to the Available Individual Equity.

As an example, if you have $50,000 in assets (your Available Individual Equity) and $500 in Remaining Monthly Income, your offer would be:

- Lump Sum: $50,000 plus $6,000 = $56,000.
- Payment Plan: $50,000 plus $12,000 = $62,000.

Maryland's OIC Program

Maryland has its own Offer in Compromise program which can be used for all taxes administered by the Comptroller, including the Admissions and Amusement Tax, Income Tax, Sales and Use Tax, and Withholding Tax. Under the program, Maryland will look at your available assets, consider your circumstances, and arrive at a fair resolution of your liability by considering a reduction of the amount due.

Am I eligible for a Maryland OIC?

In order to apply for this program, you must meet the following requirements:

- You have incurred a delinquent tax liability that has resulted in an assessment.
- You have exhausted all other avenues of administrative appeal.
- There is no issue remaining that can be appealed.
- Two years must have passed since you became liable for the tax.
- You must be current with respect to all returns filed or required to be filed to the Comptroller's Office.
- You must not be currently involved in an open bankruptcy proceeding.
- You are unlikely to be able to make payment in full any time in the foreseeable future due to your financial situation.
- You either are without resources or unable to apply present and/or future resources to paying the outstanding tax liability.

What are the downsides to a Maryland OIC?

You must remain current with respect to future filings for at least three years after the Offer in Compromise is accepted. If you do not, you'll owe all the taxes immediately, and the Comptroller can take all necessary action to collect.

Can I appeal Maryland’s OIC decision?

All decisions under the Offer in Compromise Program are final and cannot be appealed. This is why you should carefully consider the facts and arguments you submit with your offer. The Comptroller's Office will consider another OIC if your circumstances change.

CHAPTER 5

Installment Agreements

An installment agreement, which allows you to pay down your tax debt over a period of time, stops the IRS from pursuing its powerful collection methods - including the filing of a tax lien - against you.

What is an installment agreement?

An installment agreement (IA) is a payment plan that helps taxpayers who meet certain requirements get back on track so they can start paying down their debt. If you owe less than $10,000, the IRS will allow you to pay the back taxes over a period of 36 months. If you owe less than $50,000, the IRS will give you up to 72 months to pay.

A **partial payment installment agreement** allows you to pay *less* than the total amount owed by making monthly payments. Because the IRS is reducing the amount owed, you must fill out more detailed financial forms so the IRS can calculate the "reasonable collection potential" of the back taxes. Basically, the IRS looks at your assets, your income, and the statute of limitations on the taxes, and decides how much you can pay. If you make all the payments, any remaining balance is forgiven.

The biggest benefit of an IA is that the IRS will not file a tax lien against you. As previously mentioned, a tax lien can negatively affect your credit and prevent you from selling or refinancing your home.

I owe $10,000 or less…

The IRS will accept your proposed payment plan (or **guaranteed installment agreement**) if your outstanding balance is $10,000 or less, and, in the past five tax years, you:

- Filed your tax returns on time.

- Paid income tax due.
- Have not previously requested an IA.

In addition, you must not have the current ability to pay the tax in full, which is a determination the IRS makes based on the information you submit.

Guaranteed installment agreements don't require you to fill out any extensive financial disclosures. When you enter into a guaranteed installment agreement, you agree to pay your tax debt in full within three years.

I owe between $10,000 and $50,000...

There are two types of streamlined installment agreements. The first is the classic version, which requires the IRS debt to be less than $25,000, and repaid within five years. The IRS Fresh Start Initiative increases the debt limit to $50,000, with a repayment term of six years.

I owe more than $50,000 in IRS taxes...

While you may still be eligible for a repayment plan, there are a few more hoops you'll have to go through, including a thorough financial disclosure to prove the plan is necessary in order for you to pay your tax debt.

You'll need to complete Form 9465-FS, and attach a Collection Information Statement on Form 433-F. The IRS will conduct a more thorough investigation of your assets and liabilities to determine whether you qualify for the IA, and may also refuse your request if it deems you can pay your debt or are living a lavish lifestyle.

Another distinction if you owe $50,000 or more, is that the IRS will file tax liens against you until the tax debt has been paid in full.

How do I enter into an IA?

You or your tax representative will have to request it from the IRS. If you owe $50,000 or less in combined taxes, penalties, and interest, and have filed all required returns, you or your representative can either call the IRS, or use their Online Payment Agreement (OPA) tool. The OPA allows you near immediate notification of acceptance, which can take as little as 30 minutes.

If you owe more than $50,000, you'll have to mail in your Form 9465 with the accompanying documentation and have it approved by the IRS. The IRS typically responds within one month.

Do I need to hire someone to help me resolve my tax debt?

Maybe not. If you owe less than $10,000, the IRS will accept any amount for your payment plan as long as you pay it off in three years. Most of the tax resolution firms out there will charge you thousands of dollars, which may be more than the penalties and interest you pay the IRS.

On the other hand, the more you owe, the more important it is to seek expert advice. An attorney with expertise in tax law can help you evaluate the options you have available to you to resolve your IRS debt, as well as any beneficial provisions applicable to your case, such as first-time tax abatements or a reasonable cause defense to penalties imposed - both of which can reduce the amount you owe.

It's essential before you enter into any agreement with the IRS that you are fully aware of the terms and conditions you're agreeing to. For example, when you enter into an IA, you agree to comply with all tax laws and make future filings and payments in a timely manner. Failure to do so results in default under the agreement.

Interest and penalties will continue to accrue on your unpaid tax balance, no matter which type of IA you enter into. A discussion with your lawyer may even help you determine what monthly payment will strike the balance between both protecting you from default, and paying down the most you can afford so you save big on accumulating interest.

CHAPTER 6

Currently Not Collectible Status

If you have no assets and you can't pay your current living expenses - you're too poor to pay your tax debt - you can get the IRS to declare you currently not collectible. This will suspend all IRS collection activities, including levies and garnishments. The taxes are still owed and continue to accrue interest, but you have some breathing space. More importantly, the ten year statute of limitations continues to run, so you may be able to simply wait out the IRS and not have to pay back your tax debt at all.

What does Currently Not Collectible status mean?

Currently Not Collectible (CNC) is the designation assigned to taxpayers that cannot resolve their tax debt without incurring undue financial burden. If your account is placed in CNC status, it means the IRS cannot currently collect from you - or levy your assets or income - until your financial situation improves.

Keep in mind however, that while the IRS must cease all collection and enforcement activity, it will continue to charge interest and penalties to your account, and may arrange to apply any future tax refunds you are owed to your unpaid debt.

Furthermore, regardless of whether your account is in CNC hardship status, in many cases, typically those with a balance due of over $10,000, the IRS may file a Notice of Federal Tax Lien (NFTL). An NFTL can affect your credit rating, and impact your ability to sell your property or other assets.

Does CNC status mean I don't *ever* have to pay my tax debt?

No. CNC status is not a permanent solution, and your tax debt is not forgiven. Your tax accounts remain in CNC status only as long as you cannot afford monthly payments. The IRS can continue to try to collect from you in the future, and will review your accounts annually to see if your ability to pay changes.

For example, let’s say the IRS closes your case as CNC at $50,000. If in the future your annual income exceeds this amount, the IRS will deem your financial situation has changed and you’re now able to pay your tax debt. Accordingly, your case will be reactivated and sent back to collection.

The IRS may also designate a **follow-up date**, reactivating the case on such date, and sending it back to collection regardless of any other factors. If at that time the IRS determines your ability to pay has improved, it can again commence its collection efforts.

What’s more, if you fail to file a tax return or continue to let back taxes accrue, which delinquencies can revoke your Currently Not Collectible status, the IRS can **automatically re-open** your case for collection.

How long does the IRS have to collect taxes from me?

The IRS can attempt to collect your taxes up to 10 years from the date they were assessed, after which time the taxes are no longer enforceable against you.

It’s worth noting that this 10-year period can be suspended in certain cases. For example, if the collection of taxes was delayed by the filing of an Offer in Compromise or bankruptcy, that will extend the time the IRS has to collect the tax over and above the 10-year limitation. An account in CNC status does *not* extend this 10-year period.

How do I apply for Currently Not Collectible status?

You need to contact the IRS and demonstrate that you cannot make monthly payments towards your tax debt, and that collection would create undue hardship by leaving you unable to pay your necessary living expenses.

You can either call the IRS, or fill out IRS Form 433-F, accompanied by a letter of request. If you decide to request CNC status, you should:

- File tax returns for all prior years you were required to file a return;
- Resolve any outstanding delinquent returns;
- Continue to file your future returns on time, even if you cannot make payment, to prevent late filing penalties;

- Gather information that will help verify your income, expenses, and debts, such as copies of your paycheck stubs, statements for monthly income you receive, such as Social Security benefits, pension, spousal or child support, TANF, etc., your lease or mortgage statement that shows your required monthly payment, property tax bills, utility bills, recent credit card statements, and so on; and
- Provide the IRS any other financial information that will help it decide whether to grant your request.

What about Maryland taxes?

There is no CNC status in Maryland, and even if there was, it would not likely help you avoid paying taxes. There is no statute of limitations on tax debt in Maryland. so your tax debt will never expire. Moreover, taxes in Maryland accrue interest at 13% per year, so your debt will only continue to grow.

If you owe both the IRS and the state of Maryland, you may want to set up a payment plan with the state first. Then when you apply for CNC status, you should be able to include the payments you are making to the state in your expenses, making it easier to qualify for CNC status because your available income to pay your federal taxes will be reduced.

Do I need help to file for CNC status?

Many people who contact the IRS directly to work out their tax debt end up in IAs instead of CNC status. According to the Taxpayer Advocate Service, an estimated 300,000 taxpayers who should have qualified for CNC status actually ended up in payment plans. Does the IRS do this on purpose to squeeze more money out of struggling taxpayers? I can't say for sure, but by dealing with them directly, you may not get the best result. A seasoned tax lawyer can represent you in your negotiations with the IRS.

CHAPTER 7

Wait Them Out

When it comes to tax debt, the IRS generally has up to 10 years from the date your taxes were assessed to collect from you. If you can make it past those 10 years, you may never have to pay back your taxes. This strategy will not work for Maryland taxes as there is no statute of limitations in place and your state taxes will never expire.

How long does the IRS have to collect my taxes?

The IRS doesn't have forever to collect taxes from you. As a general rule, according to the statute of limitations, they can collect up to 10 years from the date your taxes were assessed. The date of assessment is usually the date the tax return is due or the date the return is actually filed, if you filed late. That's another reason to make sure you file your returns, even if they are late and even if you owe money: If you don't file the returns, the taxes may never expire!

Does the IRS ever have more than 10 years to collect against me?

Yes, this 10-year deadline can be extended. First, the IRS can ask you to voluntarily extend the deadline, in an effort to get more time to collect the taxes. Filing an OIC will also extend the deadline during the time the IRS is considering your offer - and remember, it can take up to 2 years for you to hear a decision from them. Finally, if you file for bankruptcy, the deadline will be "tolled" or extended by the amount of time you are in bankruptcy.

Note that if you are granted CNC status, the statute will continue to run and will not extend the 10-year deadline. The danger here is that in order to qualify for CNC status, you must give the IRS all your financial information, which may be used now or in the future to collect from you. Installment agreements that continue after the expiration date may not extend the deadline.

What about my Maryland taxes?

Unfortunately, this strategy will not work with Maryland tax debt. There is no statute of limitations on tax debt in Maryland, so your state debt will never expire. Worse yet, it continues to accrue interest at 13% per year. This means your debt will DOUBLE every 6 years. Ultimately, you will probably have to settle your Maryland tax debt by payment plan or bankruptcy.

CHAPTER 8

Method 5: Wipe Them Out

If you have filed your returns and not committed fraud, bankruptcy can wipe out back taxes more than 3 years old. Used in combination with one of the above strategies, you can hold the IRS off for a year or two until the taxes are dischargeable.

Many people are surprised to learn that bankruptcy can wipe out back taxes. As a general rule, income taxes more than 3 years old can be wiped out. And while you must have filed your returns and not committed fraud, bankruptcy can be a powerful way to deal with the IRS.

How do you wipe out taxes with a Chapter 7 bankruptcy?

There are two types of bankruptcy, Chapter 7 and Chapter 13, and both types of bankruptcy stop the IRS and other creditors from trying to collect from you.

A Chapter 7 is a one time procedure and is usually over in about 90 days. When you file a Chapter 7, a Trustee is appointed by the bankruptcy court to review your assets (what you own) and you debts (what you owe). The Trustee's job is to find assets that they can sell (liquidate) to raise money to pay off your debts.

But the Trustee can't take everything you own and leave you living under a bridge. You are allowed to protect certain assets. You can exempt $12,000 in personal property, most retirement plans, personal injury settlements (car accidents or workers comp claims), and up to $23,000 in equity in your home. For most people, this protects everything they own and they lose nothing in a Chapter 7.

How can I determine whether my tax debt can be discharged in a Chapter 7?

This calculator will help you assess your case:

1. Have you filed all tax returns that are due? If NO, the you must file your returns ASAP and wait.

2. Do you owe taxes for any year? If NO, stop here. You don't have any back taxes to be wiped out. If YES, proceed to the next question.

3. The 3-year rule: Has it been three years since the taxes were due? This due date is the filing deadline for the tax year, which is usually April 15, or sometimes April 16 or 17, not to be confused with the date you filed your taxes. For example, in 2015, taxes were due April 16, 2016, so the three-year period would be up April 16, 2019. **If the answer is NO, then the tax is a priority tax debt and cannot be discharged in a Chapter 7 bankruptcy.**

4. The 2-year rule: Were your returns filed more than 2 years before the filing of the bankruptcy? If YES, then proceed to Question 5. If NO, you must wait. (IMPORTANT NOTE-there are cases in some states that hold that if your taxes were filed late, the tax debt can NOT be wiped out. Eventually the Supreme Court will resolve this split of opinions)

5. The 240-day rule: Were the taxes assessed within 240 days of filing for bankruptcy? The date of assessment is usually around the date the return was filed or the last date the return was due. If an amended return is filed, the 240-day period starts over. **If the answer is YES, then the tax is a priority tax debt and cannot be discharged in a Chapter 7 bankruptcy.**

6. Taxes are dischargeable - meaning they can be wiped out - if:

    - The return was filed on time, or if late, more than 2 years before the bankruptcy filing.
    - The tax is not a priority tax debt.
    - You did not willfully evade taxes.

If all of the above are true, you should be able to wipe out your tax debt and make a fresh start. If not, you may want to consider a Chapter 13.

How do you wipe out taxes with a Chapter 13 bankruptcy?

If you have assets you can't protect in a Chapter 7, you may want to consider a Chapter 13, which will allow you to catch up on your mortgage or car payments and keep your home or car that you could lose in a Chapter 7. Because it's reorganization and not liquidation, you can keep everything you own.

A Chapter 13 is a payment plan that can last up to 60 months. It allows you to reduce the penalties and interest you pay the IRS, and when you get a discharge at the end of the Chapter 13 plan, you may be free and clear of all your IRS liabilities.

What's the difference between a Chapter 13 and an Installment Agreement?

While a Chapter 13 and an Installment Agreement (IA) with the IRS may seem similar, this chart sets out some important differences:

Chapter 13 Bankruptcy vs. Installment Agreement (IA)

Relief Needed:	Chap 13	Installment Agreement
Stops penalties	Yes	No
Stops interest	Yes	No
Maximum length	60 months	72 Months
Pays newest taxes first	Yes	No
Pay less than full amount	Yes for old taxes	No
Extends time for IRS to collect	Yes	Usually No
Stops ALL creditors	Yes	No

First, filing a Chapter 13 will stop the IRS - and all your other creditors - from trying to collect from you. Many times, when people are behind with the IRS, they are behind with other creditors and need protection from them as well. An IA with the IRS will only stop the IRS. Moreover, if you end up falling behind in your Chapter 13, creditors will have to get permission from the Court to take action against you. If you fall behind on an IA, the IRS can immediately start collection action again.

Second, a Chapter 13 will stop interest from accruing on your IRS debt. It may also stop or eliminate the penalties the IRS will add to your debt. When you agree to an IA, interest and penalties continue to accrue. In some cases, they are more than your monthly payments, so your IRS debt will continue to grow while you are in the IA.

Third, the IRS is a "priority" debt in bankruptcy. That means it gets paid before other less important debts. Many times, I see people making payments on credit cards, medical bills or payday loans, but not the IRS. This is because these less important creditors are more aggressive than the IRS. They will call you at home or work until you agree to pay, or sue you and get a garnishment. The IRS will almost never call you. (If you get a call from someone claiming to be from the IRS, it is most likely a scam!) The IRS does most of its collecting by mail and according to strict regulations. Thing is, the IRS is the most powerful creditor, with the most far-reaching means of collection, so they're the ones you really should pay back before all the rest.

Fourth, if you complete your Chapter 13, you will get a discharge and you are done with the IRS. In an IA, you may still owe after you complete your payments.

During both a Chapter 13 and an IA, you must continue to file your taxes. If you fall behind during a Chapter 13, you may be able to add these new taxes to your plan. If you fall behind with the IRS, they may cancel your agreement and start collection actions again.

During a Chapter 13, the statute of limitation will be "tolled" or stopped. During an IA, the statute generally continues to run.

Chapter 13s last 36 to 60 months. IAs can last up to 72 months.

Both the Chapter 13 and the IA look at your income and expenses to determine your monthly payments. The bankruptcy court tends to be more flexible than the IRS in allowing expenses, so you may be better off in Chapter 13 in terms of the amount of your payment. Also, your Chapter 13 plan will deal with ALL of your debts at once, not just the IRS.

What about Maryland taxes?

The same rules that apply to the IRS, apply to state taxes. Since there is no statute of limitations for Maryland tax debt, bankruptcy may be the ONLY way to get rid of your state tax debt.

CHAPTER 9

What About My Maryland Taxes?

Maryland state taxes do not expire. Maryland can estimate what you owe even if you don't file a tax return. And Maryland is much more aggressive in its collection efforts than the IRS. For all these reasons, you should always resolve your state taxes before your IRS debt.

Unlike the IRS**,** the state of Maryland will never give up on collecting from you. There is no statute of limitations on tax debt in Maryland and unpaid taxes collect interest at a whopping 13% per year. Maryland can and will collect taxes from you that are 10, 15, or 20 years old. You cannot wait out the state of Maryland!

Also, Maryland does NOT require you to file your taxes before working out a settlement agreement. You may think this is a good thing, but it may not be. Maryland will simply estimate what they think you owe and try to collect it from you. Do you think they are going to give you their lowest estimate or their highest? They just want you to pay something. Moreover, if you don't file, you can never wipe out the taxes in bankruptcy, since to do so you must have filed a return.

What's more, Maryland is also much more aggressive than the IRS in its collection tactics. They can suspend your driver's license, your occupational license, take your tax refunds, put a lien on your house, or garnish your paycheck.

If I owe the IRS and the state of Maryland, does it matter which one I settle with first?

Yes**.** Paying the IRS before you pay the state of Maryland can be a huge mistake. As seen above, taxes owed to the state of Maryland will never expire. So if you take all of your available income to pay the IRS, your Maryland debt will only continue to grow. Once you finish paying the IRS, you will still have to deal with a now much larger state tax debt.

Also, when the IRS looks at your available income to determine how much you can afford each month, you can deduct any payments you are making for state tax debt. This may reduce the total amount you pay every month if you have payment plan with both the IRS and Maryland. If your payment to Maryland takes up ALL your available income, the IRS may put you into CNC status and not require you to pay anything.

Maryland, on the other hand, does not care if you are paying the IRS. They want their money and they want it now.

CHAPTER 10

How You Should Get Help

Remember: By law, the only people who can give you advice on how to settle your debt to the IRS are Enrolled Agents, CPAs, or attorneys. Make sure you know what all the options are so you can determine which is best for you.

That's it. There are no secret plans for dealing with the IRS, just these five methods to resolve and settle your tax debt. Anyone promising you otherwise is likely trying to scam you out of your hard earned - and precious - dollars. Roni Deutch and TaxMasters are just the latest to hit the news among those "pennies on the dollar" tax settlement "businesses." They collected millions from hard pressed Americans like yourself, and are both out of business, shut down by lawsuits from ripped off customers and attorneys general. Unfortunately, there is no shortage of new companies looking to prey on desperate taxpayers.

As a seasoned tax and bankruptcy lawyer, I can help discuss your options, and figure out your best course of action. Call me today, and get the fresh start you deserve.

Jim Logan 410-243-1508

GLOSSARY

When you are dealing with the IRS (or any government agency), you'll quickly notice their love for acronyms or terms of art. This will help you figure out what they mean.

Chapter 13 A monthly payment option for wiping out debts.

Chapter 7 A Trustee sells any property you can't protect to pay your debts. Most people don't lose any property in a Chapter 7.

Currently Not Collectible (CNC) When the IRS think you can't pay anything, it will put you into CNC status and leave you alone. This status is generally reviewed once a year or when the IRS thinks you are earning money again. It is not available in MD.

Installment Agreement (IA) A monthly payment plan to pay your taxes.

Offer in Compromise (OIC) The "Bigfoot" of tax resolution, this is when the IRS or MD settle your debt for less than the full amount owed. Many people claim it is out there, but you don't see it very often.

Substitute For Return (SFR) The IRS will take any W-2s or 1099s and make up a return for you. Usually, this is not to your advantage.

Statute of Limitations The amount of time before a debt expires and becomes uncollectible.

Taxpayer Advocate Service An independent office within the IRS which helps taxpayers resolve issues with the IRS. It also identifies problems with the IRS and reports to Congress.

Other helpful stuff

Order Account Transcript

You can order an account transcript by going to http://www.irs.gov/Individuals/Order-a-Transcript. An "account transcript" is not the same as a "tax return transcript." A "tax return transcript" will only have the numbers from your return, not the dates you need.

If you owe income taxes to the IRS or the state of Maryland and don't know where to turn, BEFORE you call the IRS or the comptroller, BEFORE you hire a tax resolution company, BEFORE you make any decisions or sign any agreements, you owe it to yourself to read this book.

Reading this book will show you:

* How to stop IRS and MD collections.
* How to protect your property from tax levies.
* All of the options available to you to settle your tax debt.
* When to settle and when to wait.
* Why you should never settle with the IRS first
* How to end the stress of owing taxes.
* How to make a "Fresh Start" and begin sleeping soundly again.
* And much more.

If you or your family, friends or co-workers owe income taxes, then this book can change your life. Simply reading it will give you an immediate sense of relief and give you a road map to getting out of tax debt and make a "Fresh Start".

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