

# PROTECT & DEFEND



*Proven Strategies From  
America's Leading Attorneys  
To Help You*

## PROTECT & DEFEND

**YOUR BUSINESS, FAMILY AND WEALTH**

FEATURING

**Nick Nemeth, Esq.**

& Leading Attorneys from Around the Country



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## CHAPTER 2

# **2 Ways to Tackle an IRS Problem Before It Tackles You**

By Nick Nemeth

Let's face it. Even the mention of the IRS makes most people cringe in much the same way as someone saying they're getting a tooth filled or getting a colonoscopy. In fact, my experience dictates that most people would opt for a colonoscopy versus having to deal with an IRS problem! But in exactly the same way as either of those necessary evils, IRS problems do arise and do need to be addressed sooner rather than later. You need to treat an IRS problem the same way you would a toothache: assess the problem and address it before you lose the tooth altogether. Tackle the problem before it tackles you.

Let me share with you a couple of scenarios that might make you think twice about how you deal with the IRS. The first is an anecdote about a former client of mine who I'll call Mr. X.

My client, Mr. X, was a small-business owner who knew he was falling behind with his payroll taxes, but he didn't want to deal with the problem immediately. Like so many other business owners, he kept thinking, "I can't pay now, but I'll get caught up next time." He let it go for a couple years until one day a

revenue officer left a business card on his door. He ignored that, too. Finally, Mr. X received the “bad letter” from the IRS. The IRS by law must send you adequate notification that you owe them money and that they intend to collect it. You only have 30 days to act once you receive a “Final Notice of Intent to Levy,” or collection activity might quickly begin.

Mr. X was unnerved enough by his receipt of the letter that he quickly contacted my office and came in for a consultation within a week. It took Mr. X two years of delay for the IRS to catch up with him and for Mr. X to finally seek help. I advised him that he only had a few days left to file an appeal, before the IRS may begin levying bank accounts or seizing assets and receivables. Mr. X chose not to retain my firm at that meeting. We didn’t hear from Mr. X again until nearly three months later when he came back to me reporting that his clients had received a notice of levy from the IRS. A notice of levy to his clients essentially meant that instead of paying Mr. X what they owed him, they must now send the money directly to the IRS!

His entire client list now had received these notices, and to make things worse, his bank accounts had been levied to pay his back taxes as well. So it’s not an *intent* to levy anymore; it’s an actual levy. When he returned to my office, I warned him that we might be able to quickly get some of this money back for him to run his business, but we might not.

I advised him that by delaying and ignoring my original advice from our first meeting, he had taken away some of my ability as his attorney to effectively help him. Mr. X ended up with about \$150,000 being taken from him in those first several months by an overly aggressive revenue officer assigned to his case. Mr. X ended up having to shut down his company that he had spent more than 20 years building. The company also declared bankruptcy, and Mr. X now faces personal liability for his company’s debts. As unfortunate as it may be, I see this happen fairly regularly to those who delay taking action.

## **HOW TO TACKLE AN IRS PROBLEM #1: PROMPT RESPONSE**

The first way to tackle your IRS problem is don't delay! Once you have an attorney you've thoroughly vetted and in whom you trust, listen to his/her advice. The attorney isn't telling you to do certain things for no reason; he/she has you and your business's best interests at heart. Your delay could end up costing you more than money. It could cost you your business, your lifestyle and your reputation, all of which you've worked hard to build. Hiding your head in the sand won't make your IRS problems go away.

I understand that some people think that they'll never be able to "win" with the IRS. However, some people also legitimately believe that they will "get caught up" and pay off their taxes after the downturn in the economy is over. But the economy may not turn around as quickly as a person or a business owner may hope. It's best to be proactive and not wait for the other shoe to drop.

If the tomorrow you hoped for never comes and your problem doesn't get solved, then it will simply get worse. There's always a manageable solution to every one of these problems. You might be happier with one solution over another, but there's a way out and a way to stop IRS collection activity. Don't take the gamble of whether the revenue officer is going to knock on your door before you can dig yourself out from under this. By the time the revenue officer comes, it might be too late.

## **HOW TO TACKLE AN IRS PROBLEM #2: FILE YOUR TAX RETURNS**

Lots of people, especially those who are self-employed, fall into the quagmire of not filing taxes because they know they'll owe money. Frequently, for example, a realtor might think "Oh, I didn't put aside the tax money I owe, so I'll file an extension until October and then I'll have all summer to sell another house and collect the commission so I can get the tax money together."

Come October, they still don't have the money so they still don't file. This type of delay tactic inevitably seems to lead to several years of unfiled returns and a seemingly insurmountable debt.

Here's the problem: It's not a crime to owe the government money, but it *is* a crime to not file your taxes. If your thought is that you don't want to file for this year because that will tip off the IRS to the fact that you didn't file your tax return last year, you're digging yourself a crater, not a hole. Generally, this type of client comes to me and hasn't filed a tax return in 10 years because he's afraid of what might happen. At this point the client is not only facing the possibility of levies, garnishments and seizures for unpaid taxes but are also the possibility of a criminal indictment and jail time.

Get some advice now, not when you've become a chronic non-filer and you're facing six years of jail time. True, the IRS loves to go after the big fish like Hollywood superstars because those stories make the news. But don't falsely assume that the IRS only pursues the rich and famous. We're seeing more and more cases where the local plumber in Boise, Idaho, is going to jail for three years because he didn't file his tax returns. Moreover, when you don't file your own tax returns the IRS may take it upon themselves to prepare the missing returns for you. Do you really want the IRS preparing a return for you without giving you proper credit for your expenses, dependants, exemptions, filing status, etc.? Absolutely not.

People often ask me, "*Can I go to jail for my IRS problems?*" The answer is if you've accurately filed your tax returns, you can't go to jail, regardless of whether you owe taxes or not. That's true. But the key word here is *accurately*. You must not have given fraudulent information on your return.

People also ask, "*If you don't get advice or fail to act on that advice, what can happen?*" There's an extensive list of things the IRS can do to get their money, none of them pleasant. There can be wage garnishments and seizure of real estate, Social Security

income, 401(k)s and IRAs, as well as cars, bank accounts, your home, accounts receivable, the cash value of your life insurance policy, and commissions that may be owed to you by your company.

Likewise, once a revenue officer has been assigned to your case, he has the right to talk to your employer, friends, neighbors and family. The revenue officer's job is to gather information that can be used against you in your case. Your chatty neighbor talking about your recent vacation to Europe or your new boat won't help your case. Unless you want friends and family answering questions about your job or spending habits, it's best to file your returns promptly and seek competent legal representation to keep the revenue officer off the case, or at the very least, under control.

If the threat of jail time or levying your personal or business income isn't enough to make you take action, consider the penalties that compound as a result of your inaction. You might be aware that there are financial penalties for owing the IRS money, but you may not be aware that the penalties for *not* filing may be stiffer.

### **47.5% PENALTY, PLUS INTEREST— ANOTHER GOOD REASON TO FILE**

If you didn't file taxes for this past year, or any other year for that matter, you may be in for a very rude awakening. Interest is being compounded daily on what you owe: the quarterly federal short-term rate, plus 3 percent. As of this writing, the IRS is charging 3 percent per year.

That doesn't sound too bad... yet. But it doesn't stop there.

Non-filers are also subject to a late payment penalty each month, as well as a late filing penalty each month, and also a one-time penalty for not withholding enough taxes during the year or making required estimated quarterly payments. If this doesn't thoroughly confuse and scare you, it gets worse: Every month you don't file and pay in full, your penalties continue accruing



until they cap at 47.5 percent. Ridiculous! I know loan sharks who charge less!

To put it all in perspective, if you owe \$10,000 for a specific tax year and don't file or pay it for a few years, your debt could easily double to \$20,000 for that year. Now multiply this amount by the number of years you haven't filed and you can now begin to imagine how a manageable problem snowballs into a monstrosity. Every day you put off taking care of your IRS problem only makes it worse.

### **WHAT YOU SHOULD DO IF YOU HAVEN'T FILED**

By all means, file your taxes, even if you can't afford to pay the tax that's due.

By filing your taxes and not paying them, you'll at least go from Non-Filing status to Non-Paying status. This may enable you to qualify for one of the five common negotiating tactics:

1. You might be able to be declared Non-Collectible, where you pay nothing.
2. You may be able to have the debt reduced through an offer in compromise.
3. You may be able to set up a monthly installment agreement, where you pay a manageable monthly payment.
4. You might qualify for a partial-pay installment agreement (where you pay less than the total amount owed through monthly payments).
5. You may qualify to declare bankruptcy, resulting in some or all of your IRS debt being discharged through the bankruptcy proceedings

Each of the above IRS relief methods has its pros and cons, depending on the specifics of your situation.

What I hope you'll take away from reading this chapter is a sense of urgency to address whatever difficulties you're facing

with your taxes and the IRS. No one likes to pay taxes. Fewer still likely enjoy the chore of assembling their information and filing their tax returns. When your birthday passes each year, you're just another year older. For each April 15<sup>th</sup> that passes where you haven't filed a return, you could be one day closer to the IRS seizing your assets and dismantling the life or business you've built.

Respond quickly when the IRS contacts you. Find a competent attorney with tax experience and heed his or her advice. If you haven't filed your taxes in years, begin with the most current year and work backward. Remember that while it's not a crime to owe the government taxes, it is a crime to not file your tax returns. Don't let yourself become Mr. X and risk losing everything and ruining your life by hiding your head in the sand and hoping your IRS problems will go away on their own. They won't.



## About Nick

Nick Nemeth is a Texas attorney who's been in practice for the past 15 years. His law practice, The Law Offices of Nick Nemeth, PLLC, focuses solely on helping individuals and businesses resolve a wide range of IRS issues. Nick has been featured in *USA Today*, *CNBC*, “*CBS Money Watch*,” *Yahoo Finance*, the *Miami Herald* and *Morningstar* as well as ABC, NBC, CBS and Fox affiliates around the country.

As a long-time resident of Dallas, Nick possesses a unique quality only present in those who truly love their home—a complete and personal investment in the lives of the people of his community. By creating a truly local presence in the Dallas-Fort Worth Metroplex, Nick brings his 15 years of legal experience to those who truly need it ... individuals and businesses who are being threatened by the IRS.

Nick's ultimate goal in his practice, for any of his clients, is to provide efficient, cost-effective legal representation. He firmly believes that when any taxpayer is facing an “opponent” who happens to be a branch of the federal government, one who's able to seize your property and assets without going to court, that taxpayer should arm him/herself with an aggressive, experienced law firm. Nick's staff includes attorneys, CPAs, enrolled agents and tax professionals who are dedicated to keeping ahead of an ever-changing industry: solving IRS problems. Nick is known for constantly saying, “My only job is to keep the IRS as far away as possible from my clients' assets until I negotiate an acceptable solution to their problem.”

Nick was driven to become an attorney by his desire to help serve others and make a positive impact on the world. He's pleased with having found a niche in which he has been able to accomplish both these goals. He loves the satisfaction of working for a diverse clientele who are unequivocally pleased with his representation. His dedication to his practice is a benefit to all in the area of law he's focused on—helping his clients solve their IRS problems.

Having traveled to places like Sweden, Austria, Denmark, Canada, Hungary and the Caribbean, Nick appreciates the ties that continue to bring him back to Dallas-Fort Worth: his law practice, his wife and five children, and the abun-

dance of sports and community activities that keeps the family man busy.

To learn more about Nick Nemeth and his law practice, or to order a copy of his free special report, *How to End Your IRS Problems Forever*, visit [www.myIRSteam.com](http://www.myIRSteam.com) or call (972) 484-0TAX (0829).