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## ***What You Should Know About***

# **The CNMI Division of Revenue and Tax's Collection Process**

*Keep this publication for future reference*

**Publication 594CM**

***We usually send this publication to taxpayers along with a final bill for taxes they owe. If you owe the tax shown on the bill we sent you, please arrange to pay it immediately. If you believe the bill is incorrect, call us now so that we may correct the mistake. We urge you to settle your tax account now so that we don't have to take any further action to collect the taxes you owe.***

This publication tells you the steps the CNMI Division of Revenue and Tax may take to collect overdue taxes. It also includes a summary of your rights and responsibilities concerning paying your CNMI taxes.

Inside you will find a number of titles of CNMI forms and publications that apply to the various situations discussed. For copies of these documents, please call us, write to us, or visit the Division of Revenue and Tax. Please contact us right away; we will work with you to solve your tax problem.

Please note that the information in this document applies to all taxpayers- for example, individuals who owe income tax and employers who owe employment tax. Special rules that apply only to employers are in separate sections at the end.

This document is for information only. Although it discusses the legal authority that allows the Division of Revenue and Tax to collect taxes, it is not a precise and technical analysis of the law.

## ***Important Information You Should Know***

By law, you have the right to be treated professionally, fairly, promptly, and courteously by Revenue and Tax employees. Among other things, you have the right to:

- < disagree with your tax bill,
- < meet with a Revenue and Tax manager if you disagree with the Revenue and Tax employee who handles your tax case,
- < appeal most Revenue and Tax collection actions,
- < be represented by someone when dealing with Revenue and Tax matters, and
- < receive a receipt for any payment you make.

For details about your rights, see Publication 1CM, *Your Rights as a Taxpayer*. You received a copy of it ,with your first bill.

### ***If you disagree with our decisions...***

If you disagree with the decision of a Revenue and Tax employee at any time during the collection process, you can ask that employee's manager to review your case.

When you ask for a review, the employee will refer you to a manager. The manager will either speak with you then or will return your call by the next work day.

If you disagree with the manager's decision, you have the right to file an appeal under the Collection Appeals Program. This program enables you to appeal most collection actions we may take, including filing a lien, placing a levy on your wages or bank account, or seizing your property.

### ***If you want someone to represent you...***

When dealing with the Division of Revenue and Tax, you may choose to represent yourself, or you may have an attorney, a certified public accountant, an enrolled agent, or any person

enrolled to practice before the IRS represent you. For example, you may want your tax preparer to respond to a tax bill that you believe is incorrect.

If your representative appears without you, he or she must file a Form 2848CM, *Power of Attorney and Declaration of Representative*, or Form 8821, *Tax Information Authorization*, before being allowed to receive or inspect confidential material.

### ***We have a special program to help you with tax problems that cannot be resolved through normal Division of Revenue and Tax channels....***

The Problem Resolution Program ensure that taxpayer's problems are handled promptly and properly. If you've made repeated attempts to work out your tax problems with the Division of Revenue and Tax but have been unsuccessful, first ask any Revenue and Tax employee or manager to help you.

If the problem continues, ask an employee from the Technical Research and Appeals Branch who will determine if you qualify for the Problem Resolution Program.

### ***Other items to note...***

- ***The Division of Revenue and Tax can share your tax information*** - By law, the Division of Revenue and Tax can share your tax information under strict legal guidelines with IRS, Guam, the Attorney General's Office and other CNMI Agencies.
- ***We may contact a third party*** - The law allows us to contact someone else, such as neighbors, banks, employers, or employees, to investigate your case.
- ***If you are involved In bankruptcy proceedings***- Contact the Division of Revenue and Tax. While the proceeding may not eliminate your tax debt, it may temporarily stop Revenue and Tax's enforcement action from collecting a debt related to the bankruptcy.
- ***Spousal defenses*** - In some cases, you may not be liable for taxes, interest, and penalties on a joint income tax return. Contact Revenue and Tax for more information.

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# What to Do When You Owe Taxes

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## **Pay Your Taxes - or Tell Us Why You Can't**

When you file your tax return, we check to see if the math is accurate and if you have paid the correct amount. If you have not paid all you owe, we send a bill called a *Notice of Tax Due and Demand for Payment*. (You may have already received it if you did not pay your taxes or if your payment was incorrect.) The bill includes the taxes, plus penalties and interest. We encourage you to pay your bill by check or money order as quickly as possible.

If you have received a bill for unpaid taxes, you should pay the entire amount - or tell us right away why you cannot. Call the office that sent you the bill. There are several different ways that you can pay.

If you do not pay the taxes you owe and if you make no effort to pay them, we can ask you to take action to pay your taxes, such as selling or mortgaging any assets you have or getting a loan. If you still make no effort to pay your bill or to work out a payment plan, we may also take more serious action, such as seizing your bank account, levying your wages, or taking your other income or assets.

### **What if you believe your bill is wrong?**

If you believe your bill is wrong, let us know as soon as possible. Call the number on your bill, write to the Division of Revenue and Tax, or visit the Division of Revenue and Tax, if you prefer.

To help us correct the problem, gather a copy of the bill along with copies of any records, tax returns, and canceled checks, etc., that will help us understand why you believe your bill is wrong.

If you write to us, tell us why you believe your bill is wrong. With your letter, include copies of all the documents you gathered to explain your case. Please do not send original documents. If we find you are correct, we will adjust your account and, if necessary, send you a corrected bill.

***If you cannot pay all that you owe now, there's still something you can do...***

If you cannot pay all your taxes now, pay as much as you can. By paying now, you reduce the amount of interest and penalty you will owe. Then, immediately call, write, or visit the Division of Revenue and Tax to explain your situation.

After you explain your problem, we may ask you to fill out a *Collection Information Statement* to help us compare your monthly income with your expenses and to figure out the amount you can pay. We can then help you work out a payment plan that fits your problem. Based on your situation, we will work with you to consider several different ways to pay what you owe:

- < You may be able to make monthly payments through an installment agreement,

- < You may be able to apply for an Offer in Compromise, or
- < You may qualify for a temporary delay or your case may be considered a significant hardship.

## ***Set Up an Installment Agreement***

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Installment agreements allow the full payment of your debt in smaller, more manageable amounts. Installment agreements generally require equal monthly payments. The amount of your installment payment will be based on the amount you owe and your ability to pay that amount within the time available to the Division of Revenue and Tax to collect the tax debt from you. An installment agreement is a reasonable payment option for some taxpayers.

You should be aware, however, that an installment agreement is more costly to you than paying all the taxes you owe now and may be more costly than borrowing funds to pay the amount you owe. Why? Because the Division of Revenue and Tax charges interest and penalties on the tax you owe, and charges interest on the unpaid penalties

and interest that have been charged to your tax account. So, while you are making payments on your tax debt through an installment agreement, the Division of Revenue and Tax continues to charge interest and penalties on the unpaid portion of that debt. The interest rate on a bank loan or cash advance on your credit card may be lower than the combination of penalties and interest that the Division of Revenue and Tax charges.

If you would like to pay off your tax debt through an installment agreement and...

- < ***You owe less \$10,000 or less in tax,*** just call the number on your bill to set up your plan now. We'll tell you what you have to do to begin today.
- < ***You owe more than \$10,000 in tax,*** we may still be able to set up an installment agreement for you, but you may have to fill out Form 433-F, *Collection Information Statement*.

Even though you agree to an installment agreement, we may still file a Notice of Tax Lien to secure the government's interest until you make a final payment. However, we cannot levy against your property while your request for an installment agreement is being considered, while your agreement is in effect, for 30 days after your request for an agreement has been rejected, or for any period while an appeal of the rejection is being evaluated by the Division of Revenue and Tax.

If you do arrange for an installment agreement, you can pay with personal or business checks, money orders, or certified funds.

Your agreement is based on your financial situation. If a change in your financial situation makes it necessary to change your agreement, we will send you a letter 30 days before we change your plan. ***If you have an installment agreement, you must pay on time. If you cannot, tell us immediately.***

### ***Caution!***

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We may end the agreement if you don't give us updated financial information when we ask for it, or if you don't meet the terms of the agreement. Your agreement could end if you pay late, miss a payment, or don't file or pay all required tax returns. In that case, we may take enforced collection action.

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## ***Apply for an Offer in Compromise***

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In some cases, we may accept an Offer in Compromise to settle an unpaid tax account, including any interest and penalties. With this type of arrangement, we accept less than the amount you owe when it is doubtful we will be able to collect all the debt in the near future.

To file for an Offer in Compromise, see Form 656, *Offer in Compromise*.

## ***Temporarily Delay the Collection Process***

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If we determine that you cannot pay any of your tax debt, we may temporarily delay collection until your financial condition improves. You should know that if we do delay collecting from you, your debt will increase because penalties and interest are charged until you pay the full amount. During a

temporary delay, we will again review your ability to pay. We may also file a *Notice of Tax Lien* to protect the government's interest in your assets.

**If you have a significant hardship...**

Your case may be considered a significant hardship if paying your taxes would mean that you cannot afford to maintain the necessities to live day to day, such as food, clothing, shelter, transportation, and medical treatment.

In addition, other cases may be considered as significant hardship by law: an immediate threat of adverse action, a delay of more than 30 days in resolving taxpayer account problems, the incurring of significant costs (including fees for professional representation) if relief is not granted, and irreparable injury to, or long-term adverse impact on, the taxpayer if relief is not granted.

To apply for emergency relief if you are facing a significant hardship, call the Division of Revenue and Tax or visit the Office in Saipan, Rota or Tinian. If you can qualify, they can help you fill out Form 911, *Application for Taxpayer Assistance Order*.

## ***About Revenue and Tax's Collection Actions***

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**Before we take any action explained in this section, we will contact you to give you a chance to voluntarily pay what you owe. But if you do not pay your taxes in full and do not contact us to let us know why you cannot pay or why you disagree with our decision to take enforcement action, the law requires us to take action. We may:**

- < ***File a lien*** against your property (Make a legal claim to your property as security or payment for your tax debt) (*See the information Below*).
- < ***Serve a levy*** on your property or salary (Legally seize your property to satisfy a tax debt)
- < ***Assess a trust fund recovery penalty***, for employment taxes

These *enforced collection actions* are the means by which we can enforce the *Notice and Demand for Tax Payment*. On the following pages, we explain these collection actions and the rules that govern them.

## **Liens**

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*Liens give us a legal claim to your property as security or payment for your tax debt. A Notice of Tax Lien may be filed only after:*

- < We assess the liability;
- < We send you a *Notice and Demand for Payment*-a bill that tells you how much you owe in taxes; and
- < You neglected or refuse to fully pay the debt within 10 days after we notify you about it.

Once these requirements are met, a lien is created for the amount of your tax debt. By filing this notice, your creditors are publicly notified that we have a claim against all your property, including property you acquire after the lien was filed.

The lien attaches to all your property (such as your house or car) and to all your rights to property (such as your accounts receivable, if you are an employer).

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### **Caution!**

Once a lien is filed, your credit rating may be harmed. You may not be able to get a loan to buy a house or a car, get a new credit card, or sign a lease.

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### **Releasing a lien**

We will issue a *Release of the Notice of Tax Lien*:

- < Within 30 days after you satisfy the tax due (including interest and other additions) by paying the debt or by having it adjusted, or
- < Within 30 days after we accept a bond that you submit, guaranteeing payment of the debt.

Usually 10 years after a tax is assessed, a lien releases automatically if we have not filed it again. If we knowingly or negligently do not release a *Notice of Tax Lien* when it should be released, you may sue the government, but not the Revenue and Tax employees, for damages.

### **Applying for a discharge of a tax lien**

If you are giving up ownership of property, such as when you sell your home, you may apply for a *Certificate of Discharge*. Each application for a discharge of a tax lien releases the effects of the lien against one piece of property. Note that when certain conditions exist, a third party may also request a *Certificate of Discharge*. See Publication 783, *Instructions on How to Apply for a Certificate of Discharge of Property from the Tax Lien*.

### **Applying for a discharge of tax lien**

If you are giving up ownership of property, such as when you sell your home, you may apply for a *Certificate of Discharge*. Each Application for a discharge of a tax lien releases the effects of the lien against one piece of property. Note that when certain conditions exist, a third party may also request a *Certificate of Discharge*. See Publication 783, *Instructions on How to Apply for a Certificate of Discharge of Property from the Tax Lien*.

### **Making Revenue and Tax's lien secondary to another lien**

In some cases, a tax lien can be made secondary to another lien. That process is called *subordination*. See Publication 784, *How to Prepare Application for Certificate of Subordination of a Tax Lien*.

### **Withdrawing liens**

By law, a filed notice of tax lien can be withdrawn if:

- < the notice was filed too soon or not according to Revenue and Tax procedures,
- < you entered into an installment agreement to pay the debt on the notice of lien (unless the agreement provides otherwise),
- < withdrawal will speed collecting the tax, or
- < withdrawal would be in your best interest (as determined by the Division of Revenue and Tax) and the best interest of the government.

We will give you a copy of the withdrawal and, if you write to us, we will send a copy to other institutions you name.

### ***Appealing the filing of a lien***

The law requires us to notify you in writing within 5 business days after the filing of a lien. We may give you this notice in person, leave it at your home or your usual place of business, or send it by certified or registered mail to your last known address. You may ask a Revenue and Tax manager to review your case or you may file an appeal with the Division's Appeal Branch. You must file your appeal within 30 days of the date of this notice. Some of the issues you may discuss include:

- < You paid all you owed before we filed the lien,
- < We assessed the tax and filed the lien when you were in bankruptcy and subject to the automatic stay during bankruptcy,
- < We made a procedural error in an assessment,
- < The time to collect the tax (called *the statute of limitations*) expired before we filed the lien,
- < You did not have an opportunity to dispute the assessed liability,
- < You wish to discuss the collection options, or
- < You wish to make spousal defenses.

At the conclusion of your appeal, the Appeals Branch will issue a determination. That determination may support the continued existence of the filed tax lien or it may determine that the lien should be released or withdrawn. You will have a 30-day period, starting with the date of the determination, to bring a suit to contest the determination. See Publication 1660, *Collection Appeal Rights*, for more information.

### **Levies**

A levy is a legal seizure of your property to satisfy a tax debt. Levies are different from liens. A lien is a *claim used as security* for the tax debt, while a levy actually takes the property to satisfy the tax debt.

If you do not pay your taxes (or make arrangements to settle your debt), Revenue and Tax may seize and sell any type of real or personal property that you own or have an interest in. For instance,

- < We could seize and sell property that you hold (such as your car, boat, or house), or
- < We could levy property that is yours but is held by someone else (such as your wages, retirement accounts, dividends, bank accounts, licenses, rental income, accounts receivables, the cash value of your life insurance, or commissions).

We usually levy only after these three requirements are met:

- < We assessed the tax and sent you a *Notice and Demand for Payment*,
- < You neglected or refused to pay the tax, and
- < We sent you a *Final Notice of Intent to Levy* and a *Notice of Right to Hearing* (levy notice) at least 30 days before the levy. We may give you this notice in person, leave it at your home or your usual place of business, or send it to your last known address by certified mail, return receipt requested.

If your property is levied or seized, contact the Revenue and Tax employee who took the action. You may also ask a Revenue and Tax manager to review your case, or you may file an appeal with the Appeals Branch. You must file your appeal within 30 days of the date of the *Final Notice of Intent to Levy and a Notice of Right to Hearing*. Some of the issues you may discuss include:

- You paid all you owed before we sent the levy notice,

- We assessed the tax and sent the levy notice when you were in bankruptcy and subject to the automatic stay during bankruptcy,
- We made a procedural error in an assessment,
- The time to collect the tax (called *the statute of limitations*) expired before we sent the levy notice,
- You did not have an opportunity to dispute the assessed liability,
- You wish to discuss the collection options, or
- You wish to make spousal defenses.

At the conclusion of your appeal, the Appeals Branch will issue a determination. That determination may support the levy action or it may determine that the levy should be released. You will have a 30-day period, starting the date of determination to bring a suit to contest the determination. See Publication 660, *Collection Appeal Rights*, for more information.

#### **Levying your wages or your bank account**

If we levy your salary or wages, the levy will end when:

- < The levy is released,
- < You pay your debt, or
- < The time expires for legally collecting the tax.

If we levy your bank account, for 21 days your bank must hold funds you have on deposit-up to the amount you owe. This period allows you time to solve any problems from the levy or to make other arrangements to pay. After 21 days, the bank must send the money, plus interest if it applies, to Revenue and Tax.

To discuss your case, call the Revenue and Tax employee whose name is shown on the *Notice of Levy*.

#### **Filing a claim for reimbursement when we made a mistake in levying your account**

If you paid bank charges because of a mistake we made when we levied your account, you may be entitled to a reimbursement. To be reimbursed, you must file a claim with us within 1 year after your bank charged you the fee. Use Form 8546, *Claim for Reimbursement of Bank Charges Incurred Due to Erroneous Service Levy or Misplaced Payment Check*.

#### **Releasing a levy**

We must release your levy if any of the following occur:

- < You pay the tax, penalty, and interest you owe.
- < We discover that the time for collection ended (*the statute of limitations*) before the levy was served.
- < You provide documentation proving that releasing the levy will help us collect the tax.
- < You have, or are about to enter into, an approved, current installment agreement, unless the agreement says the levy does not have to be released.
- < We determine that the levy is creating a significant economic hardship for you.
- < The expense of selling the property would be more than the tax debt.

#### **Releasing your property**

Before the sale date, we may release the property if:

- < You pay the amount of the government's interest in the property,
- < You enter into an escrow arrangement,
- < You furnish an acceptable bond,
- < You make an acceptable agreement for paying the tax, or



- < The expense of selling your property would be more than the tax debt.

### **Returning levied property**

We can consider returning levied property if:

- < We levy before we send you the 2 required notices or before your time for responding to them has passed (10 days for the *Notice and Demand*; 30 days for the *Notice of Intent to Levy* and the *Notice of Right to Hearing*).
- < It was determined that we did not follow our own procedures.
- < We agree to let you pay in installments, but we still levy, and the agreement does not say that we can do so.
- < Returning the property will help you pay your taxes.
- < Returning the property is in your best interest and the government's.

### **Selling your property**

After your property is seized, we must usually wait 60 days before we sell it. We will post a public notice of a pending sale, usually in local newspapers or flyers. We will deliver the original notice of sale to you or send it to you by certified mail.

After placing the notice, we must wait at least 10 days before conducting the sale, unless the property is perishable and must be sold immediately.

Before the sale, we will compute a *minimum bid price*. This bid is usually 80% or more of the forced sale value of the property, after subtracting any liens.

If you disagree with this price, you can appeal it. Ask that the price be computed again by either a Revenue and Tax or private appraiser.

You may also ask that we sell the seized property within 60 days. For information about how to do so, call the Revenue and Tax employee who made the seizure. We will grant your request, unless it is in the government's best interest to keep the property. We will send you a letter telling you of our decision about your request. After the sale, we first use the proceeds to pay the expenses of the levy

and sale. Then we use any remaining amount to pay the tax bill.

- < ***If the proceeds of the sale are less than the total of the tax bill and the expenses of levy and sale***, you will still have to pay the unpaid tax.

- < ***If the proceeds of the sale are more than the total of the tax bill and the expenses of the levy and sale***, we will notify you about the surplus money and will tell you how to ask for a refund. However, if someone, such as a mortgagee or other lienholder, makes a claim that is superior to yours, we will pay that claim before we refund any money to you.

## Redeeming your real estate

You (or anyone with an interest in the property) may redeem your real estate within 180 days after the sale. You must pay the purchaser the amount paid for the property, plus interest at 20% annually.

### **Some property cannot be levied or seized**

By law, some property cannot be levied or seized. We may not seize any of your property when the expense of selling the property would be more than the tax debt. In addition, we may not seize or levy your property on the day you attend a collection interview because of a summons.

Other items we may not levy or seize include:

- < School books and certain clothing;
- < Fuel, provisions, furniture, and personal effects for a head of household, totaling a certain statutory amount;
- < Books and tools you use in your trade, business, or profession, totaling a certain statutory amount;
- < Unemployment benefits;
- < Undelivered mail;
- < Certain annuity and pension benefits;
- < Certain service-connected disability payments;
- < Workmen's compensation;
- < Salary, wages, or income included in a judgement for court-ordered child support payment;
- < Certain public assistance payments;
- < A minimum weekly exemption for wages, salary, and other income.

Use Publication 1494, *Table of Figuring Amount Exempt from Levy and Wages, Salary and Other Income* (Forms 668-W(c)(DO) and 668-W(c)), to determine the amount of earned income exempt from

## **Employment Taxes for Employers**

To encourage prompt payment of withheld income and employment taxes, there is a law that provides for the trust fund recovery penalty. (These taxes are called *trust fund taxes* because you actually hold the employee's money in trust until you make a CNMI tax deposit in that amount.)

If we plan to assess you for the trust fund recovery penalty, we will send you a letter stating that you are the *responsible* person. You have 60 days after you receive our letter to appeal our proposal. If you do not respond to our letter, we will assess the penalty against you and send you a *Notice and Demand for Payment*. Also, we can apply this penalty whether or not you are out of business.

A responsible person is a person or group of people who has the duty to perform and the power to direct the collecting, accounting, and paying of trust fund taxes. This person may be:

- an officer or an employee of a corporation,
- a member or employee of a partnership,
- a corporate director or shareholder,
- a member of a board of trustees of a nonprofit organization, or
- another person with authority and control over funds to direct their disbursement.

### ***Assessing the trust fund recovery penalty***

We may assess the penalty against anyone:

- < who is responsible for collecting or paying withheld income and employment taxes, and
- < who willfully fails to collect or pay them.

For willfulness to exist, the responsible person must

- < Have known about the unpaid taxes, and

Have used the funds to keep the business going or allowed available funds to be paid to other creditors

### **Especially for Employers...**

Employment taxes are:

- < The amount you should withhold from your employees for income tax.

**Caution!**

***If you ignore the CNMI tax deposit and filing requirements, the amount you owe can increase dramatically.***

If you do not pay your employment taxes on time, or if you were required to and did not include your payment with your return, we will charge you interest and penalties on any unpaid balance. We may charge you penalties of up to 15% of the amount not deposited, depending on how many days late you are.

If you do not pay withheld trust fund taxes, we may take additional collection action. We may require you to:

- < File and pay your taxes monthly rather than quarterly, or
- < Open a special bank account for the withheld amounts, under penalty of prosecution. See Circular E, *Employer's Tax Guide*; and Notice 109, *Information About Depositing Employment and Excise Taxes*.

### ***Figuring the penalty amount***

The amount of the penalty is equal to the unpaid balance of the trust fund tax. The penalty is computed based on:

- < The unpaid income taxes withheld, plus
- < The employee's portion of the withheld FICA taxes.

**Caution!**

Once we assert the penalty, we can take collection action against your personal assets. For instance, we can file a tax lien if you are the responsible person.

### ***Appealing the decision***

You have the right to appeal our decision to recommend that you pay the trust fund recovery penalty amount.

See Publication 5CM, *General Information Regarding Appeals Branch Procedures, Appeal Rights and Preparation of Protests for Unagreed Cases*, for a clear outline of the appeals process.