

KNOW YOUR RIGHTS

YOUR RIGHTS AS A LOW-INCOME TAX PAYER

1. I received a letter from the IRS (or NYSDTF) claiming I owe more tax. What should I do?

You may have a right to appeal this decision either in U.S. Tax Court, or through the New York State tax appeal system. However, you have to act within the time limits stated in the letter. It's usually 90 days from the date of the letter notifying you of the proposed tax assessment. If you want legal assistance in appealing such a determination, call The Legal Aid Society's LITC at (212) 426-3013. Be sure to state the date of the letter you received and the deadline for appealing, if you are able to tell from the letter.

2. My spouse and I filed a joint tax return and were expecting a refund, but the IRS did not send us the refund because my husband owes a student loan. What can I do?

If part of the refund was due to taxes that were withheld from your wages, or was

a refundable credit based in part on your wages, you may be able to claim your portion of the refund by filing a request for "injured spouse relief." Similar relief is available for New York State income tax refunds. To obtain legal assistance in requesting such relief, call the LITC at (212) 426-3013.

3. I received a warrant from the New York State Department of Taxation and Finance. What does this mean?

A warrant can be issued and filed like a civil judgment, for taxes due to New York State. It allows the State to levy on bank accounts, wages, and other non-exempt assets of the taxpayer, in order to collect the tax debt. However, the State cannot levy on exempt assets such as public assistance, SSI or Social Security. After a warrant is issued, the State can take collection action for many years, while interest and penalties continue to accrue on the outstanding tax debt.

4. I owe back taxes, but I can't afford to pay the amount I owe. What can I do?

If you cannot afford to pay all your taxes immediately, pay as much as you can because by paying now, you will reduce the amount of interest and penalty. Both the IRS and NYSDTF may allow you to pay tax arrears using an installment agreement. An installment agreement

generally requires equal monthly payments that will pay the tax in full over time. In certain circumstances, you may want to consider making an "offer in compromise" to settle unpaid taxes for less than the full amount of the balance owed. For advice and assistance in considering your payment options, call the LITC at (212) 426-3013.

5. I got a notice from the IRS claiming that I owe more income tax because I did not report income from a cancellation of debt when my home was foreclosed. I did not receive any money from the foreclosure of my home, so how can I owe taxes?

You may not owe taxes if you were insolvent, or the debt was discharged in bankruptcy, or under some other circumstances. However, you do need to take action to challenge your liability. Forgiveness of credit card debt, home equity loans, or delinquency judgments may be considered income by the IRS and result in tax liability if you do not establish that you fall within an exception to this rule.

6. The IRS has notified me that it intends to levy on my Social Security benefits (or State tax refund, or other assets) to collect back taxes it claims I owe. What can I do?

Taxpayers have the right to request a collection due process hearing within 30 days of Notice of Intent to Levy, or a Notice of Federal Tax Lien. Requesting a hearing within this period gives the taxpayer a chance to talk to IRS Appeals about other collection alternatives, and usually stays the levy action while the hearing is pending. If the hearing decision is unfavorable, the taxpayer can appeal to U.S. Tax Court. Even if it has been over 30 days since the date of the levy notice (or lien notice), the taxpayer may still request an “equivalency hearing”, but the collection action is not stayed, and there is no right to appeal from the hearing decision.

7. My ex-spouse failed to report income (or pay taxes owed) on a joint tax return filed when we were still married. Now the IRS is coming after me to pay the taxes due. What can I do?

You may be able to request “innocent spouse relief” from liability on a joint return, depending on the facts and circumstances in your case. You must do this within two years of the date collection action against you commenced. If you think you may qualify for innocent spouse relief, call the LITC at (212) 426-3013.

8. I got a letter from the IRS saying that I owe more tax because I failed to

report income from employment on my tax return. However, I have never worked for the company the letter lists as my employer.

You may be the victim of identity theft. You should try to obtain verification from the company listed as your employer that you were not its employee, and provide that information to the IRS. You need to immediately notify the IRS that you dispute its determination. If you need help in doing this, contact the LITC.

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MAKING THE CASE FOR HUMANITY

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