


**2024
National Income Tax
Workbook**

Chapter 6 : IRS Issues
PP 181-224



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Chapter Topics **P. 181**

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Issue #1 Tax Liens **P.183**

- IRC §6321 provides that if any person is liable for a tax neglects or refuses to pay the tax after demand, the amount shall be a lien in favor of the United States
- Includes interest and penalties
- Lien attaches to all property and rights to property
- Effective from date when IRS assesses the tax
- IRS need not file Notice of Federal Tax Lien (NFTL)

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Jointly Owned Property **P.183**

- Joint tenant or tenants in common and only 1 owes – property sold
- Joint tenancy and debtor tenant dies – lien ceases
- Joint tenancy and debtor survives –lien on entire property
- If tenants in common, lien attaches to the debtor's interest and survives the taxpayer's death
- Alter-Egos and Nominees – the lien extends to these

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Notice of Federal Tax Lien **P. 184**

Where?

- Real property- state where property is located
- Personal property is determined by the taxpayer's residence
- Corp or partnership -the residence is location of principle office

How?

- Within 5 days IRS must give notice of the filing, information on collection due process (CDP), and information on appeals – Letter 3172
- In person, left at dwelling or usual place of business, or sent by registered or certified mail to last known address

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Priority of Filing **PP184-185**

- If IRS does not properly file, the lien is not valid.
- IRS can refile the lien and retain the original filing date
- Even if it does properly file, it might not be valid against the purchaser of certain property that is purchased for full and adequate consideration

Not valid against holder of security interest if filed earlier than NFTL and have priority under state law

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Tax Lien Duration **P. 185**

- The tax lien continues until the liability is satisfied or the collection statute expiration date (CSED) -10 years
- There can be more than one CSED for a tax period
- CSED can go beyond that 10 year period if the statute is suspended or extended
- If there is a judgement, the collection period does not expire until the judgement is satisfied

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Assisting Taxpayers **P. 185**

Options:

1. Pay the amount in full
2. Appeal the lien through CDP or CAP
3. Request the release of the lien
4. Apply for withdrawal of the NFTL
5. Apply for discharge of the lien
6. Request subordination of the lien

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Payment in full **P. 186**

NFTL shows amount due at that point in time

Find out balance due by

1. Contacting the office assigned to the account
2. Create an IRS online account
3. Request payoff amount through Centralized Lien Operation
phone 800-913-6050
e-fax 855-390-3530

IRS can release a lien within 30 days of full payment and will issue Certificate of Release of Federal Tax Lien
See Publication 4235

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Appealing the Lien **P.186**

- Letter 3172 has information on Collection Due Process (CDP)
- Taxpayers have 30 days to request a CDP hearing
- CDP hearing prohibits levy action and suspends the collection statute
- To request, complete Form 12153
- Can also appeal under the Collection Appeals Program (CAP)
- CAP has faster results but cannot be appealed in court.

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Withdrawal of NFTL **P.187**

IRC §6323 give IRS authority to withdraw a NFTL under certain circumstances. It does not mean the lien is released or the taxpayer is no longer liable

Reasons the IRS might do this:

1. The filing was premature
2. An installment agreement is entered into
3. To facilitate the collection of the liability
4. It is in the best interest of both parties

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Example 6.1 **P. 187**

- IRS filed NFTL on Janice
- No assets -no other secured creditors
- Janice agreed to payroll deductions
- NFTL withdrawn to facilitate the collection of liability

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Discharge of Lien **PP187-188**

Removal of the lien from specific property for the following reasons:

1. Property encumbered $\geq 2 \times$ federal tax liability
2. Tax liability is partially satisfied with an amount paid \geq government's interest in the property discharged Ex 6.2
3. Part of the property is sold and proceeds held in a fund subject to the government's claims Ex 6.3
4. A third party owner makes a deposit or provides a bond

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Example 6.2 **P.188**


Sam owes IRS	\$203,000	
Offer to sell	\$215,000	
Mortgage	- 135,000	
Settlement Costs	- 15,000	
	65,000	65,000
Sam's outstanding debt		138,000

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Example 6.3 **P.188**

Jim Atkinson has debt

First Mortgage	\$320,000
Second Mortgage	\$50,000
Tax Debt	\$40,000
Mechanic's Lien	\$3,000



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Subordination of the Lien P. 189

Allows creditors to move ahead of the government. Application made on Form 14134.

Reasons why IRS might approve this:

1. Taxpayer pays the IRS at least as much as the lien to be subordinated. Ex. Refinancing a mortgage
2. Subordination will increase the amount the government realizes. Ex. Lowering the monthly payments
3. Government adequately secured after subordination of an estate tax lien imposed by IRC 6325(d)(3)

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Estate and Gift Tax Liens P.190

- An estate tax lien is automatically created on date of death
- No notice is required for it to become effective
- It attaches to all assets in the estate
- If estate taxes are not paid, lien continues for 10 years or until paid or unenforceable
- IRC §6324(b) imposes a lien for unpaid gift tax.

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Example 6.5 P. 191

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Issue #2 IRS Business Tax Account P.192

IRS has expanded business tax account access to S corporations and partnerships and added the ability to view business tax transcripts

Available at [IRS.gov/businessaccount](https://www.irs.gov/businessaccount)

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Business Tax Account Services P.192

The services available to sole proprietors with an EIN are:

1. View business balance due
2. View business tax records
3. View select digital notices
4. Request a tax compliance check
5. View business name and address on file
6. Give account access to employees
7. Register for clean energy credits (if eligible)

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Who can access? P.193

- Partners and shareholders with the K-1
- Sole proprietors with an EIN
- Sole proprietors without an EIN can access under their SSN

IRS Tax Pro Account allows real-time posting of the Form 2848, Power of Attorney and Form 8821, Tax Information authorization

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Issue #3
P.194

E-Filing Requirements and Exceptions

- IRS receives 4 billion information returns per year
- Expects 5 billion by 2028
- 2019 received 40 million paper returns, which is only 1% of the returns that were filed
- Final regulations under The Taxpayer First Act (2019) decrease the number of returns a taxpayer may file without being required to file them electronically

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Final Regulations
P.194

1. Reduce the 250-return threshold to 10
2. Requires filers to aggregate different types of information returns to determine the 10-return threshold
3. Eliminates the exception for corporations with assets under 10M
4. Requires partnerships with more than 100 partners to e-file information returns and partnerships that file at least 10 returns of any type to e-file

These requirements include Forms W-2 e-files with Social Security Administration


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Example 6.6
P.195

Walker Distributing is required to file the following forms for 2023:

- 4 1099- NEC
- 4 1099-Div
- 2 W-2
- 10 Total returns

It must file electronically.



W-2 Wage and Tax Statement **2024**

Department of the Treasury - Internal Revenue Service
Do Not Cut, Fold, or Staple Forms on This Page

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Corrected Returns **P.195**

- If an original return is required to be filed electronically, any corrected return must also be filed electronically

Example 6.7

- Same facts as 6.6
- 2 Form 1099-Div need to be corrected
- Since original returns were required to be filed electronically, the corrected returns also need to be filed electronically

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Information Returns Intake System **P.195**

- Information Returns Intake System (IRIS) allows businesses to electronically file Forms 1099 for calendar year 2022 and later
- IRIS portal receives information from any of the 21 Form 1099s
- Business can input information directly into the system or upload a .csv file
- If this system is used, no Form 1096 transmittal is needed
- Taxpayers create a PIN and apply for a transmittal control code (TCC)

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Filing Information Returns Electronically (FIRE) System **P.197**

- Available for the bulk filing of Form 1099 and other information returns
- New users must authenticate their identities and create a new account to access the application for a transmitter control code (TCC)

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Affordable Care Act Information Returns System (AIR) P198

- Tax practitioners can electronically file Affordable Care Act Forms 1094 and 1095 with this system
- Software is required
- Forms that can be filed: 1094-B, 1095-B, 1094-C, and 1095-C
- Users register and sign in to the AIR system with ID.me

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E-File Waivers and Exemptions P.198

Exemptions:

1. Undue hardship
2. Conflicts with religious beliefs
3. Filers of Form 1042 Annual Withholding Tax Return for US Source Income of Foreign Persons, for the 2023 year

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Hardship Waiver P.198

- Taxpayers can request a hardship waiver on Form 8508.
- Reasons might be fire, casualty, natural disaster, death or serious illness, business in its first year, a foreign entity unable to file electronically
- An approved waiver is only valid for one year and the filer is still required to file paper returns

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Religious Exemption **P.199**

- Encouraged to notify the IRS in advanced using Form 8508 for Forms 1099 and W-2
- When filing Forms 1120, 1120F, 1120S, 1065 the paper returns should be filed with the words "Religious Exemption" in bold on the top of page 1.
- No advanced application required

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Administrative Exemption **P.200**

- Notice 2024-26 IRS announced it is granting an administrative waiver to electronic filing for Form 1042, Annual Withholding Tax Return for US Source income of Foreign Persons for the calendar year 2024 and 2025 – applicable to forms filed for years 2023 and 2024
- It is automatic. No waiver request is required

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Issue #4 Record Retention **P.201**

General rule:
Must keep records that support the item of income or deduction until the statute of limitations expires

Tax practitioners:
May want to keep records a little longer than that

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Statute of Limitations **P.201**

1. 3 years from date filed -General rule
2. No limit –False or fraudulent returns have no statute. This includes non-filed returns
3. 6 years - Unreported income exceeds 25% of the gross income shown on the return

Statute can be extended by agreement or by certain events such as a 90-day letter or bankruptcy action

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Limitations on Refund Claims **P.201**

1. The later of 3 years or 2 years after the tax was paid
2. 7 years –For filing a claim on an overpayment resulting from a bad debt deduction or worthless securities

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Specific Records **P.202**

- Records relating to property should be kept until the SOL has expired on the year the taxpayer disposes of the property
- Payroll records must be kept by the employer for at least 4 years after filing the fourth quarter for the year
- Records relating to qualified sick leave taken after March 31, 2021 and records related to qualified wages for the employee retention credit paid after June 30, 2021, should be kept for at least 6 years

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Tax Practitioner Record Retention P.203

- IRC §6107(b) requires the tax return preparer to retain a completed copy of any return or claim for refund or retain a list with the names and taxpayer identification numbers for which returns were prepared
- The list must be retained for 3 years after the close of the return period
- Failure to retain the list could result in penalty

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Due Diligence Requirements P.203

- Form 8867 Paid Preparer's Due Diligence Checklist required for certain credits
- Certain items must be retained for 3 years:
 - ✓ Form 8867
 - ✓ a copy of each completed worksheet
 - ✓ a record of how and when the information was provided to the return preparer

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Electronic Return Originator P.204

- When the tax practitioner is also an electronic return originator (ERO) there are additional record retention requirements
- Must keep a signed copy of Form 8453, Form 8879, Form 8878, Form 4868 or Form 2350 for 3 years and other items such as the acknowledgments

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General Considerations **P.204**

Non-tax reasons to keep records such as litigation or facilitate future work for the client

Items to keep:

1. Signed engagement letter
2. Tax returns and workpapers
3. Documentation of communication
4. Workpapers and calculations
5. Administrative records
6. Engagement termination letter

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Issue #5 Taxpayer Advocate Service **P.205**

The Taxpayer Advocate Service (TAS) works with taxpayers and their representatives to resolve issues.

TAS has 2 types of authority:

1. Statutory authority – IRCs 7803(c) and IRC §7811
2. Delegated authority – allows TAS to resolve routine and nonsubstantive cases the same way other functions within the IRS exercise the same authority

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Statutory Authority **P.205**

- IRC §7803(c) allows TAS to:
 1. Assist taxpayers in resolving problems with the IRS
 2. Identify areas in which taxpayers have problems in dealings with IRS
 3. Propose changes in administrative practices of the IRS to mitigate problems
 4. Identify potential legislative changes that may be appropriate to mitigate the problems

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Statutory Authority **P.205**

IRC §7811 authorizes TAS to issue a taxpayer assistance order (TAO) for hardship due to administration of tax laws

Significant Hardship includes:

- Immediate threat of adverse action
- Delay of more than 30 days in resolving taxpayer account problems
- Taxpayer incurring significant costs if relief is not granted
- Irreparable injury or long-term adverse impact on the taxpayer if relief is not granted

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Delegated Authority **P. 205**

Delegated authority includes the power to do the following:

1. Make credits or refunds
2. Issue, modify, or rescind TAOs for cases under TAS assistance
3. Approve replacement checks
4. Gather documentation to substantiate credits
5. Release liens
6. Release levies
7. Make trust fund recovery payments
8. Accept certain installment agreements
9. Correct certain errors
10. Issue, rescind or modify a taxpayer advocate directive (TAD)

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Example 6.8 **P.206**

- Danielle Kim properly filed 2024 tax return
- Began receiving notices of balance due
- IRS changed her AGI, taxable income, and taxes
- She tried to resolve with IRS to no avail
- Contacted TAS , met TAS criteria, accepted into program
- IRS administrative error – input error
- TAS had the authority to adjust and restore the return as Danielle had filed it

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TAS Case Acceptance Criteria **P.206**

Criteria 1 : The taxpayer is experiencing economic harm or is about to experience economic harm

- May be caused by the IRS or personal circumstances
- Economic harm is not the same as economic hardship

Example 6.9

- Georgia claimed EIC and was selected for audit
- Expected \$3,000 refund
- She had a serious medical condition and no health insurance
- Accepted into the TAS program under Criteria 1

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Criteria 2 **P.207**

The taxpayer is facing an immediate threat of adverse action

- Could be the filing of lien, serving a notice of levy, or seizing property

Example 6.10

- Ahmed came to IRS with an eviction notice
- Waiting for \$2,000 refund from 2023
- Refund will pay for his full arrearage and prevent eviction
- Accepted as Criteria 2 case because of threat of adverse action

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Criteria #3 **P.207**

The taxpayer will incur significant costs if relief is not granted.

- Costs could include professional fees for representation

Example 6.11

- Acme Corporation received notice for employment taxes and penalties showing \$10,000 owed
- Acme believed payments had not been applied to the 12 quarters correctly
- Acme estimated the cost to hire an accountant at \$5,000
- Acme is facing significant costs

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Criteria #4 **P. 207**

The taxpayer will suffer irreparable injury or long-term adverse impact if relief is not granted.

The taxpayer may lose assets, income or potential income if no relief is granted

Example 6.12

- Darren Jones had a lien on his property
- Trying to refinance his mortgage to lower the monthly payment and allow him to pay his outstanding balance
- This case meets the Criteria 4

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Criteria #5 **P.208**

The taxpayer has experienced a delay of more than 30 days to resolve a tax account problem.

- IRS sends multiple interim responses but takes no other actions
- Delays due to the taxpayer's unresponsiveness do not qualify

Example 6.13

- Gigo Grego received notice 10 months ago that her return was selected for exam and provided the requested documentation
- She has received no further contact from the IRS
- This meets Criteria 5

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Criteria 6 **P.208**

The taxpayer has not received a response or resolution to the problem or inquiry by the date promised

Example 6.14

- Julie Steinberg is undergoing a correspondence audit for suspected unreported income
- She provides the substantiation requested 5 weeks ago for a stock sale
- IRS acknowledged receipt and indicated she would be contacted by March 5
- March 7 Julie contacts NTA toll-free number

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Requesting TAS Assistance **P.210**

1. By Phone 1-877-777-4778.
2. In Person - Addresses and phone numbers for the local offices are available at www.irs.gov/advocate/local-taxpayer-advocate
3. Form 911 – Mail or fax it to the local TAS office. A representative should include a Form 2848

Practitioner’s Note:
Before contacting TAS, the taxpayer should first try to resolve the case with the appropriate IRS supervisor.

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Issue #6 IRS Stakeholder Liaison **P.212**

- IRS Stakeholder Liaison collaborates with tax professionals, industry associations, small business groups, federal and state agencies, and community-based organizations to promote voluntary compliance and tax related benefits by promoting key messages, outreach, and education
- Stakeholder liaison receives candid input from small businesses, practitioners, and government organizations to understand how IRS policies and practices function in a practical matter

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Stakeholder Liaison Activities **P.212**

1. Manage and deliver outreach messages to improve voluntary compliance
2. Coordinate and conduct seminars to deliver IRS messages
3. Coordinate with stakeholders at the area level to identify, research and monitor IRS policy and provide feedback to practitioners using the Issue Management Resolution System (IMRS)
4. Promote self-help options
5. Provide guidance and support to taxpayers affected by disasters
6. Outreach to underserved markets, including those with limited English

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Issue Management Resolution System P.212

- Issue Management Resolution System (IMRS) is an internal database which streamlines identification, resolution, response and feedback. It is used to address issues identified by stakeholders

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Reporting Identity Theft P.213

- If a stakeholder is the victim of data theft, he or she should immediately report it to the local Stakeholder Liaison (see p.213)
- Liaison's will notify the Criminal Investigation Division and others
- Speed is critical
- IRS can take steps to block fraudulent returns

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Issue 7 Tax Scams P.214

New Client Scam

- Cybercriminals pose as potential clients, impersonating real taxpayers in an attempt to obtain sensitive information
- Information will be used to prepare fraudulent returns and collect a refund
- Might take a direct approach asking the preparer to help them and it contains a malicious link or attachment
- Might be more indirect and ask if the preparer is taking new clients
- Sometimes contains grammatical errors. See Fig 6.2 p.215

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Other Phishing Scams **P.215**

- Fraudulent use of the IRS logo, links to fake websites made to look like the IRS website
- EFIN Verification – An email scam used to attempt to steal electronic filing identification numbers(EFIN) See Figure 6.3 page 216 for an example of such email
- Taxpayer Advocacy Panel (TAP) – Voluntary board that advises IRS on systemic issues affecting taxpayers

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Health Care Expenses **P.217**

Marketers attempt to obtain funds from FSAs, HSAs and HRAs by misrepresenting personal expenditures as medical expenses

Example 6.19

- Evette Hammond is a diabetic and attempts to eat foods lower in carbs
- She sees an advertisement from a company that says if she contacts them, for a fee, they will provide her with a Dr.'s note that she can submit to her FSA to reimburse the food cost
- When she submits the claim she is denied

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Dirty Dozen **P.217**

- Starting in 2002, the IRS began putting out an annual list of 12 scams and schemes for the public to be on the look out for.
- IRS is a member of the Security Summit and works with state agencies to cooperatively implement a variety of security measures to protect taxpayers
- Summit partners also focus on education to taxpayers of fraudulent schemes

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1. Phishing and Smishing **P.218**

1. Phishing – An email is sent claiming to come from the IRS. The email might threaten with legal or criminal action or it might entice the victim with a phony tax refund.
2. Smishing – Text message or SMS message with alarming language. “Your account has now been put on hold”

Unsolicited communication may maliciously load malware

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2. Employer’s Retention Credit **P.218**

Unscrupulous promoters of the ERC encourage taxpayers to claim more than to which they are entitled

Red flags:

1. Too many quarters being claimed
2. Government orders that do not qualify
3. Too many employees and wrong calculations
4. Business citing supply chain issues
5. Business claiming ERC for too much of a tax period
6. Business did not pay wages or exist during the eligibility period
7. Promoter says there is nothing to lose

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3. Online Account Scheme **P.219**

- “Helpful scammers” attempt to sell or offer help in setting up and Online Account on IRS.gov
- They obtain personal tax and financial information used to commit identity theft

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4. False Fuel Tax Credit Claims **P.219**

- Form 4136 is being used to claim a credit for the tax paid on fuels
- This credit is available for off-highway business and farming use and is not available for most taxpayers
- IRS has a heightened awareness of this scam and falsely claiming the credit could result in civil and criminal penalties

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5. Offer in Compromise Mills **P.219**

- Mislead taxpayers into thinking their tax debts can disappear
- They advertise their promises to settle taxpayer debt with steep discounts, while charging exorbitant fees
- OIC is a legitimate program and can be accessed for free by using the IRS's Offer in Compromise Pre-Qualifier tool
- Some companies also offer legitimate services

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6. Fake Charities **P.220**

Groups masquerade as charitable organizations to attract donations from unsuspecting contributors and gather sensitive personal and financial information.

Tips to avoid getting scammed:

1. Do not give in to pressure. Take your time and research.
2. Exercise caution. Avoid charities that request gift card numbers or wire transfers
3. Verify the legitimacy of the charity. Use IRS tax exempt org tool.
4. Avoid sharing too much information.

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7. Untrustworthy Preparers **P.220**

- They encourage taxpayers to file false tax returns
- Ghost preparers do not sign the tax return. They can disappear after the return is prepared

Warning signs:

1. Shady fees – Cash only or fees based on the refund
2. False income – Used to generate higher credits or deductions
3. Wrong bank account – Refunds going into the preparer’s account

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8. Tax Advice on Social Media **P.221**

False tax advice is prevalent on social media.
Some examples are:

1. Encouraging people use tax software to manually complete Form W-2, making up large income and withholding figures to get a large refund.
2. Using Form 8944 to claim a refund. Form 8944 is a legitimate form used by return preparers to request a waiver to file paper returns instead of electronic.

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9. Spearphishing **P.221**

- Cybercriminals impersonate real taxpayers seeking help with their taxes, using fake emails to get sensitive data or gain access to a tax professional’s client information.
- Criminals access tax return preparer credentials or their client’s tax-related information, can affect multiple victims.

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10. Illegal Tax Schemes P.222

Improper Art Donation Deduction

- Promoters encourage taxpayers to purchase art at discounted prices, hold on to it for a year and donate it at an inflated value

Charitable Remainder Annuity Trusts (CRAT)

- Irrevocable trusts that allow taxpayers to donate assets to charity and draw annual income for life or a specific time-period

Monetized Installment Sales

- Involves the improper delay of the capital gain of appreciated property

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11. Bogus Tax Avoidance Strategies P.222

- Watch out for promoters promising to eliminate tax liability
- Seek the advice of a competent return preparer

Examples:

1. Syndicated Conservation Easement
2. Micro-Captive Insurance Arrangements

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P.223

12. Schemes Involving International Elements

Promoters encourage taxpayers to place assets offshore.

- Maltese Retirement Arrangements – Improperly claiming exemption from US tax on contributions and distributions to these “pension funds”
- Digital assets- Promoters claim they are untraceable and undiscoverable by the IRS

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Reporting Tax Scams **P.224**

Suspicious emails

- Report to Treasury Inspector General for Tax Administration (TIGTA)
800-366-4484

Report Fraud- Abusive schemes or preparers

- Online Form 14242 Report Suspected Abusive Tax Promotions or Preparers
- Supporting information can be sent to:
Internal Revenue Service Lead Development Center
Stop MS5040
24000 Avila Road
Laguna Niguel, CA 92677-3405

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Reporting Tax Scams **P.224**

Data Breach - The following resources are available:

1. IRS Stakeholder Liaison
2. Federal Bureau of Investigation
3. Secret Service
4. Local police
5. Federation of Tax Administrators
6. State attorney general

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Questions?

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