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RESOURCES FOR MVLS VOLUNTEERS: LOOKING FOR PRO BONO CASES?



NEW PRO BONO PORTAL

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Select a case today by reviewing available cases shown below in real time. You can click "Learn More" to express your interest in the case, or click "Share Case" to forward the available case to a colleague.

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Single Mom Can't Afford A Large Payment

Client is being sued by her former landlord for \$4146.59. She admits she owes some but not all of the debt and is hoping to reduce the amount she has to pay. Court date set for 7/20/18 at 1:30pm.

Location:	Ref. #:	Case Type:
Baltimore County	18-0138741	Debt Collection

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I Admit To The Debt, But Can We Negotiate A Settlement.

Client is being sued for \$933.00 for failing to make payments towards a debt. Client agrees that she owes the debt. There are no judgments entered in the case. Client has paid approximately \$300 toward the debt and would like to work out a settlement for the remaining. Affidavit Judgment Hearing: 7/23/18 at 1:00PM. Trial: 8/3/18 at 9:00AM.

Location:	Ref. #:	Case Type:
Washington	18-0138685	Debt Collection

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You Have Left Me No Other Choice But To File For Rent Escrow.

Client wishes to initiate a rent escrow case after nothing has been done to make repairs. Client has lived in the property since October 2016 and problems in the unit began in December 2017. To date LL, has not tried to resolve the mold issue, flooding, falling attic stairs, and the hole in the ceiling.

Location:	Ref. #:	Case Type:
Baltimore County	18-0138671	Landlord-Tenant

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Landlord Requests The Move, Now Refusing My Security Deposit.

Client filed suit against her previous Landlord for the return of her security deposit and three times the amount. Client only lived in the property for 3

Looking Towards A Fresh Start

Client seeks help with expunging her criminal record.

Here's To New Beginnings!

Client seeks to go over her criminal record with a volunteer and to have the eligible cases expunged from her record.



LIENS, LEVIES AND COLLECTION ALTERNATIVES WITH THE IRS AND MARYLAND

JOHN PONTIUS, ESQ.
PONTIUS TAX LAW, LLC

MARYLAND VOLUNTEER LAWYERS SERVICE
ROCKVILLE, MARYLAND
JANUARY 15, 2019

OVERVIEW

- Liens
 - Definition
 - Release
 - Discharge of Property
 - Subordination
 - Withdrawal
- Levies
 - Definition
 - Installment Agreement
 - Offer in Compromise
 - Currently Not Collectible
 - Bankruptcy
- Collection Due Process hearings
- US Tax Court
- Maryland Tax Issues

OVERVIEW OF FEDERAL TAX LIENS

- Protects the government's interest in all of a taxpayer's property
 - Including real estate, personal property, financial assets as well as subsequently acquired property
- Tax assessment
 - IRC 6203
- Notice and Demand
 - IRC 6303
- Tax assessment or Secret Lien
 - IRC 6321
- Notice of Federal Tax Lien (NFTL) if tax due is over \$10,000
 - Filed in the county courthouse where the taxpayer resides as well as any jurisdiction where the taxpayer owns real property
 - Provides notice to creditors that the government has a legal right to the taxpayer's property
 - Generally gives the IRS priority against other creditors and in bankruptcy proceedings

RELEASE OF FEDERAL TAX LIENS

- Within 30 day of full payment of tax debt or becoming legally unenforceable
 - IRC 6325(a)
- General rule: IRS has 10 years to collect taxes after an assessment
 - IRC 6322, lien
 - IRC 6502, underlying tax
- Exceptions
 - Tolling: Offer in Compromise, Collection Due Process hearings and Bankruptcy

DISCHARGE OF FEDERAL TAX LIENS

- Removes the lien from specific property (i.e. real estate)
 - IRC 6325(b)
- File Form 14135, *Application for Certificate of Discharge of Federal Tax Lien*
 - Pub 783, *Instructions on how to apply for Certificate of Discharge of Federal Tax Lien*
- Removes the estate tax lien
 - IRC 6325(c)
- File Form 4222, *Application for Certificate Discharging Property Subject to Estate Tax Lien*
- If accepted by the IRS, the taxpayer will receive Letter 403, *Conditional Commitment*, followed by Form 669, *Certificate of Discharge*
- Tax lien will still be in effect on the taxpayer's remaining property

SUBORDINATION OF FEDERAL TAX LIENS

- Allows other creditors to move ahead of the IRS' security interest
 - IRC 6225(d)
- May make it easier to obtain a loan or mortgage
- In April 2018, all three credit bureaus removed all tax liens from consumer credit reports
- File Form 14134, *Application for Certificate of Subordination of Federal Tax Lien*
 - Pub 784, *Instructions on how to apply for a Certificate of Subordination of Federal Tax Lien*
- If accepted by the IRS, the taxpayer will receive Letter 4053, *Conditional Commitment*, followed by Form 669, *Certificate of Discharge*
- IRS will maintain its security interest with the remaining creditors

WITHDRAWAL OF FEDERAL TAX LIENS

- Removes the public Notice of Federal Tax Lien (NFTL) as if it were filed in error
 - IRC 6423(j)
- Best options for taxpayers because they can sell assets or secure financing without the burdens of a tax lien
- May be more difficult if the tax debt is large
- NFTL withdrawal if the tax liability has been satisfied and the lien has been released
- Must be in filing and payment compliance for the last three years

WITHDRAWAL OF FEDERAL TAX LIENS (CONTINUED)

- Withdraw a tax lien if the taxpayer owes \$25,000 or less
- Balance can be paid down to \$25,000 before requesting withdrawal of the NFTL
- Direct debit installment agreement to full pay the taxes within the earlier of 60 months or before the collection statute expires
- Must be in filing and payment compliance
- No default on the current or any previous direct debit installment agreement
- After three consecutive direct debit payments, the taxpayer can file Form 12277, *Application for Withdrawal of Filed Form 668(Y), Notice of Federal Tax Lien*
- If accepted, the IRS will send the taxpayer Form 10916 A, *Withdrawal of Filed Notice of Federal Tax Lien After Release*
- Tip: Business taxpayers should mail a copy of the Form 10916 A to the credit reporting agencies to improve their credit report

OVERVIEW OF FEDERAL TAX LEVIES

- Legal seizure of a taxpayer's property to satisfy a tax debt
 - IRC 6331
- Types of levies
 - Wage garnishment
 - Financial account
 - Social Security benefits
 - Government retirement benefits
 - Real property (rare)

INSTALLMENT AGREEMENTS

- Authority
 - IRC 6159
- Streamlined Installment Agreements through Automated Collections System (ACS)
 - Under \$25,000 balance, without Form 433, *Collection Information Statement*, without Notice of Federal Tax Lien
 - Over \$25,000 up to \$50,000 balance with Form 433, direct debit payment, fully paid within 72 months, with Notice of Federal Tax Lien
 - IRS Testing: without Form 433, without direct debit payment, fully paid within 72 months and without Notice of Federal Tax Lien
 - IRS Testing: over \$50,000 up to \$100,000 balance without Form 433, without direct debit payment, fully paid within 84 months with Notice of Federal Tax Lien
- Tax balances over \$100,000 are generally assigned to Revenue Officers

OFFER IN COMPROMISE (DOUBT AS TO COLLECTIBILITY)

- Authority
 - IRC 7122
- Eligibility
 - Reasonable Collection Potential is less than the outstanding tax liability
 - Monthly disposable income plus equity value of assets
- Calculation
 - If fully paid within five months
 - Monthly disposable income times 12 plus equity value of assets
 - If fully paid within 24 months
 - Monthly disposable income times 24 plus equity value of assets
- Non-refundable 20% down payment
- Form 656 Booklet, *Offer in Compromise*

OFFER IN COMPROMISE (DOUBT AS TO LIABILITY)

- Authority
 - IRC 7122
- Form 656-L, *Offer in Compromise (Doubt as to Liability)*

CURRENTLY NOT COLLECTIBLE

- Stops a federal tax levy and temporarily suspends all collection and enforcement activity
- Taxpayer needs to pay current and future taxes and file current and future tax returns as needed
 - IRM Section 1.2.14.1.4 (03-01-1984) references Policy Statement 5-16
 - IRM Section 5.16.1

BANKRUPTCY

- Generally speaking, individuals can discharge their income tax debt if the following four requirements are met:
 - Three years have passed since the tax return was due,
 - Two years have passed since the tax return was filed,
 - 240 days have passed since the tax assessment, and
 - The tax returns were not fraudulent
- Before filing for bankruptcy, it is very important to determine if the income tax debt is dischargeable

COLLECTION DUE PROCESS (CDP) HEARINGS

- Authority
 - IRC 6330, *Notice and opportunity for hearing before levy*
 - IRC 6320, *Notice and opportunity for hearing upon filing of notice of lien*
- CDP Rights
 - Notice of proposed levy or Notice of federal tax lien
- Procedure
 - 30 days to request a CDP hearing
 - Complete Form 12153, *Request for a Collection Due Process or Equivalent Hearing*
 - It is important to identify all the reasons for any disagreement
 - The completed Form 12153 should be sent to the same address that is shown on the CDP Notice
 - If the request is timely made within 30 days, the taxpayer will be entitled to an Appeals hearing and to seek judicial review of that hearing with the Tax Court
 - If the request is timely, IRS levy action is generally suspended against the taxpayer for the appealed tax periods
 - If the request is not timely, the taxpayer is still entitled to request an Equivalent Hearing with Appeals within the 1-year period described in the Form 12153. However, if the taxpayer still disagrees with the Appeals decision in the Equivalent Hearing the taxpayer has no right to judicial review by the Tax Court.
- Publication 1660, *Collection Appeal Rights*

US TAX COURT

- Challenging the tax assessment
 - The IRS is required to issue a Notice of Deficiency before assessing additional tax
 - The taxpayer has 90 days to file a Petition to US Tax Court to challenge the assessment
 - Typically referred to IRS Appeals for settlement if the taxpayer previously bypassed IRS Appeals
- Disagreement with the denial of collection alternatives
 - The IRS is required to issue a Notice of Intent to Levy and Your Right to a Hearing before levying a taxpayer with unpaid taxes that have already been assessed
 - If the taxpayer requests a Collection Due Process within 30 days of the Notice and disagrees with the Notice of Determination from IRS Appeals, the taxpayer has 30 days to file a petition to US Tax Court
 - Standard of review: abuse of discretion standard
- Filing of US Tax Court petition stops IRS collection enforcement until the case is closed and appeals rights are exhausted. However, this time is added back to the 10-year collection statute of limitations after the case is closed.

MARYLAND TAX ISSUES

- Taxpayers with federal tax issues typically have the following Maryland tax issues:
 - Income Tax
 - Sale and Use Tax
 - Employer Withholding Tax
 - Unemployment Tax
 - Property Tax
 - Residency
- Maryland has a separate legal system for assessing and collecting tax. Working with the Maryland Comptroller can be more complicated than the IRS because of fewer resources and less formal procedures.

MARYLAND COLLECTION ACTIONS

- Motor vehicle license and registration nonrenewal
- Business and professional license hold
- Liability offset program
- Salary lien (i.e. wage garnishment)
- External collection agency referral
- Maryland tax lien
- Attach your assets (i.e. levy)
- Caught in the web

TIME FOR COLLECTIONS

- 7 years from assessment
- Can be renewed
 - Maryland Tax- General Code 13-1103

MARYLAND INSTALLMENT AGREEMENTS

- 36 month full payment installment agreement without MD Form 433, *Collection Information Statement* and no lien filing
 - Phone
- 60 month full payment installment agreement with MD Form 433, *Collection Information Statement* and lien filing
 - In writing
- 99 month full payment installment agreement with MD Form 433, *Collection Information Statement* and lien filing
 - Managerial approval needed

MARYLAND OFFER IN COMPROMISE

- Authority
 - Maryland Tax- General Code 13-816
- Form 656, *Offer in Compromise Application*
- Form 433, *Collection Information Statement*



JOHN PONTIUS, ESQ.

PONTIUS TAX LAW, LLC

199 EAST MONTGOMERY AVE, SUITE 100
ROCKVILLE, MD 20850

240.599.8027 (OFFICE)
301.787.6470 (MOBILE)

JOHN.PONTIUS@PONTIUSTAXLAW.COM
WWW.PONTIUSTAXLAW.COM

QUESTIONS?