

Law Talk: Beware of firms that tout tax reductions

By Denice A. Gierach – As published in the Naperville Sun – September 11, 2009

Most probably you have heard ads on the radio or seen spots on the television for businesses who claim to be able to help taxpayers who are behind on their tax liabilities. The ads claim that they are able to represent the taxpayers and can settle cases for pennies on the dollar. The ads chime—why pay more?

In this economy, there are many people who, despite their best efforts, have fallen behind in their tax obligations, whether it be unpaid income taxes, or in the case of a business, a payroll tax obligation. If a business withholds payroll taxes, the business must pay the withheld taxes in within a certain time frame. The time frame is determined by the amount of payroll taxes that are withheld in any period of time. The time frame may be monthly or more frequently for businesses with higher payroll.



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Many businesses have found this year that their customers have become slow to pay for the product that they have purchased or have gone out of business. These businesses may have found that their credit line with their commercial lenders have either been fully utilized or withdrawn by their lenders. They may be faced with either paying their suppliers and the payroll to their employees or paying their obligations to the IRS for the withheld payroll taxes. Many businesses have chosen to pay their employees and their suppliers rather than IRS, thinking that they can make up the payments to IRS when the economy improves. This is tough to do, as the IRS accrues interest and penalties on top of the tax.

It is important for these businesses or individuals to try to work out a plan with the IRS as to how payments will be made. In fact, due to the interest and penalties that will accrue on the account, it is usually good advice to borrow from another source, if one is available, where you can be paying simple interest, rather than interest on top of the tax plus penalties.

There are several ways to work out your obligations with the IRS. The first is to borrow elsewhere and fully pay the obligation. The second is an installment obligation where the business owner works out an arrangement to pay a certain amount per month to pay the obligation off over time. The third way is to use what is called an offer in compromise. In this method, the business owner acknowledges that he will not be able to ever fully pay the tax obligation and offers the IRS an amount less than the total amount due to be used to fully satisfy the total obligation.

In order to do any of these methods to deal with tax issues, there is a fair amount of paperwork that needs to be filled out. Most business owners do not know how to deal with

the paperwork and are fearful that they will make matters worse by dealing with the IRS directly, not knowing what they should or should not say. They decide that they need to hire someone to help them, but who?

This is where the businesses that have been advertising that they can help come in. For a fee, they fill in the paperwork for the business owner and imply that they can always get the IRS to approve a much lower payback to the IRS. The IRS, however, will soon crack down on these businesses referred to by the IRS as offer-in-compromise mills. The IRS plans to slap big penalties on companies that make misleading claims and is eyeing criminal fraud charges, too.

A business owner's best bet is still to hire a certified public accountant or a tax attorney, who does this kind of work and who can help the business through it. This professional can tell you what the IRS might accept (it probably will not be like the advertisements) and can deal directly with the IRS on your behalf. It is better to hear the reality from a professional than to pay a big fee to an offer in compromise mill and find out later that the IRS will not accept what the mill told you to offer.

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