

OBTAINING INCOME TAX RETURN INFORMATION FROM THE IRS

CHAPTER 13 CLE SEMINAR, Salt Lake City, Utah, July 28, 2005

Regarding income taxes (other tax returns are not covered in this outline), debtors are required to file tax returns with the appropriate taxing authorities for all taxable periods ending during the four year period that ends on the date the petition is filed. For individuals on a calendar income tax year, the income tax period ends on December 31st. This means that the last four tax years need to be filed (because there will be four dates of December 31st in the four-year lookback period). See 11 U.S.C. § 1308(a). There is a possible 120-day extension pursuant to § 1308(b)(1).

In most cases, when the IRS files its proof of claim, the IRS will look back **six** years to verify that all returns have been filed. Therefore, in most cases, the debtors and their attorneys will want to obtain return filing information regarding the taxpayer's last **six** tax years.

Debtors and their counsel need an efficient way to obtain the following information:

- A. Which tax returns have not been filed?
- B. If a tax return has not been filed, what income information (Form W-2, Form 1099, Schedule K-1, etc.) and what mortgage interest information (Form 1098) may be obtained from the IRS?
- C. Has the IRS filed any Notices of Federal Tax Liens?
- D. What is the total approximate liability for the tax years for which the taxpayer has filed returns?

Manner of obtaining information above in A-D:

1. The taxpayer may call the IRS toll free number, 1-800-829-1040, and obtain the information listed above in A-D. During 8:00 a.m. to 6:00 p.m. there may be long wait times.

2. The taxpayer may go to the walk-in customer service office at 50 South 200 East, Salt Lake City, Utah or 324 25th Street, Room 6025, Ogden, Utah and obtain the information listed above in A-D. There is no walk-in customer service office in St. George, Utah. The closest walk-in office to St. George is at 110 City Parkway, Las Vegas, NV, 89106, telephone number (702) 868-5005.

3.1. The taxpayer may complete Form 8821, Tax Information Authorization, and give that document to his or her attorney so that the attorney's office may obtain the information from the IRS through the Practitioner Priority Service telephone line at 1-866-860-4259, menu choice "4," Record of Account. A copy of how Form 8821 should be completed is enclosed. Two essential

points: First, in box 2 for Form 8821, name the attorney and the attorney's employee who will be contacting the IRS to obtain the tax return information. Second, check the box in line 4 so that your office does not become designated to receive all correspondence from the IRS to the taxpayers regarding the years and periods listed in box 3.

3.2. The customer service representative answering the Practitioner's Priority Service telephone line will ask that the attorney fax to the IRS the Form 8821 at a fax number that IRS customer service representative will give to you when your call is answered. The customer service representative will put you on hold while they wait to receive the Form 8821. Then, the customer service representative will be able to fax to you a summary printout of the tax years that have been filed, and the third party payor information for the tax years that have not been filed (e.g., Form W-2; Form 1099; Schedule K-1; Form 1098, etc.), to the extent authorized in Form 8821. In this manner, you receive all the information that your clients need without leaving your office.

4. The debtor's attorney may also send an employee to the IRS walk-in customer service sites in Salt Lake City or Ogden to obtain the debtor's tax return information. The attorney's employee must: (1) be named in box 2 of Form 8821 or have a letter with the attorney's letterhead that states that the person is an employee of the attorney; (2) have Form 8821, Tax Information Authorization, properly completed and executed by the taxpayer; and (3) state to the customer service representative at the walk-in site that the information is needed to comply with the new Bankruptcy legislation. With these requirements met, the attorney's employee can obtain from the IRS walk-in customer service the information listed above in A-D.

PLEASE NOTE: If the taxpayer has already filed an income tax return for a particular year (such as the taxpayer's last-filed return), the taxpayer will NOT be able to obtain a copy of that return, or a summary of the information from the return, from the customer service walk-in site. Rather, the debtor will have two ways of obtaining this information. **By telephone**, the taxpayer may call 1-800-829-1040 to obtain (1) a tax return transcript, which shows most line items from the return (including the schedules), and (2) a tax account transcript, which shows any subsequent changes to the return. The taxpayer may receive these two transcripts at no charge. Allow two weeks for delivery.

By mail, the taxpayer may send Form 4506-T, Request for Transcript of Tax Return, to the appropriate location stated on page 2 of the instructions for this form. The taxpayer will receive the same information from this form as stated above. Copies of this form are available at www.irs.gov (follow the links to "information for individuals" then "resources—forms and publications" then "download forms and publications by form number" then scroll down to Form 4506-T).

If the taxpayer wants a **photocopy** of a filed return there is a \$39.00 charge for each return requested, and the taxpayer would use Form 4506, Request for Copy of Tax Return (rather than Form 4506-T). Because there is a charge, the taxpayer cannot order a photocopy of a return by telephone. The address to which the taxpayer should send Form 4506 is located on page 2 of the instructions for that form.