



TAX AND BANKRUPTCY

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Moderator: Mark Segal, Esq. (Las Vegas, NV)
Panelists: Kent Anderson, Esq. (Eugene, OR)



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Table of Contents

1. Tax and Bankruptcy - Outline

**DISCHARGEABILITY OF INCOME TAXES IN BANKRUPTCY
AND OTHER NEW BAPCPA TAX RULES**

**Mark Segal
Of The Nevada Bar**

**Kent Anderson
Of The Oregon Bar**

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**DISCHARGEABILITY OF INCOME TAXES IN BANKRUPTCY
AND OTHER NEW BAPCPA TAX RULES**

I. GOOD NEWS: BAPCPA DID NOT AFFECT CHAPTER 7 DISCHARGE

1. The same 6 rules apply in Chapter 7 that applied Pre-BAPCPA
2. Bad news: BAPCPA Restricts Chapter 13 “Super-Discharge.”
Explored more below - Paragraph IV.

II. SIX RULES FOR DISCHARGING INCOME TAX IN CHAPTER 7

1. The discharge rules apply equally to State and Federal income taxes.
2. The tax is dischargeable and not priority if all of the following conditions exist:

(a) THE THREE-YEAR RULE

For the tax year in question – the most recent due date for filing the return is more than three years old. The three-year period is computed from most recent date the tax return is due for the tax year (typically April 15 of the year following the taxable year). An extension to file the return delays the start time. 11 U.S.C. Section 507(a)(8)(A)(i). Do not confuse with the 2-year rule.

(b) THE TWO-YEAR RULE

A tax return or equivalent report or notice, if required, has been filed or given by the taxpayer for the tax year(s) in question at least more than two years preceding the filing date of the bankruptcy. 11 U.S.C. 523(a)(1)(B).

(c) THE 240-DAY RULE

The tax claim was assessed at least more than 240 days preceding the filing date of the bankruptcy. 11 U.S.C. Section 507(a)(8)(A)(ii).

(d) TAX IS ASSESSABLE BUT NOT YET ASSESSED.

Not a “bad boy” tax; not a non-filer or late filer. Look for: Tax Court case, pending audit, consent to extension to assess. 11 U.S.C. Section 507(a)(8)(A)(iii).

(e) NON-FRAUDULENT RETURN

The tax return in question was non-fraudulent. 11 U.S.C. Section 523(a)(1)(C).

(f) NO WILLFUL TAX EVASION

The taxpayer has not engaged in activity deemed a willful attempt to defeat or evade the tax. 11 U.S.C. Section 523(a)(1)(C).

III. ISSUES WITH 6 RULES

1. 3 Year Rule:

When is the “due date?”

CAVEAT: Extension to file changes the due date.

IRS extension to file now skips over August 15 & goes to Oct. 15

CAVEAT: Due date falls on holiday or weekend. - check back 3 years every April 15 and October 15.

2. 2 Year Rule:

a. What is a “return?”

The BAPCPA changes both broaden and narrow the definition of a “return” for purposes of discharge.

§ 523(a)(1)(B) broadens it to include “equivalent report or “notice.”

But hanging paragraph following § 523(a)(19) narrows the definition and basically provides that a return is whatever the IRS says it is, “a return that satisfies the requirements of applicable nonbankruptcy law.”

- excludes a return prepared under IRC Section 6020(b).

b. What is an equivalent “report or “notice?”

CAVEAT: State “piggy-back” tax:

A state “Report” required to be sent to the state taxing agency following a new IRS assessment could now be a “Return” which arguably would trigger a new 2 year period as to the additional tax reported and a new 3-year due date. If there is a new 3 year period, when is the report “due?”

c. What is “filing?” When is a return, report or notice “given?” § 523(a)(1)(B).

d. A Substitute for Return (“SFR”) does not count as a return for bankruptcy discharge purposes. What is it? How do you know it exists?

e. Is a return filed after an SFR a “return” for discharge purposes? Did the IRS actually access on the SFR date?

Most cases hold it is a return if filed prior to assessment; fewer cases consider it a return if filed after the assessment, but such a return that corrects an incorrect IRS assessment has a chance of being deemed a return.

3. The 240-day rule:

- a. When was leap day? If it falls within the 240 day period but you do not count it you will wait an unnecessary day before you think you can file.
- b. When was the assessment made?
 - i. IRS billing uses the term “assessment” – date easy to identify.
 - ii. Many state taxing entities do not: tax is deemed “assessed” when it can no longer be appealed administratively; i.e., when it is “final,” e.g., California.
 - iii. How many assessments were there?
 - aa. - by year?
 - bb. - by period?
 - cc. - by type of tax?
- c. Subsequent assessment starts a new 240-day period as to the additional tax assessed; if the original tax meets the 5 rules, there are no other new time periods for subsequent assessment.
- d. Interest arising from the assessment follows the tax; i.e., if the assessment satisfies the 240 day period, so does the interest (doesn't matter when the interest is dated).

4. Assessable but not yet assessed.

5. Fraudulent tax return: taints liability

6. Willfull Evasion: how “bad” do you have to be?

- a. Majority rule – must do more than mere failure to file.
- b. Guilt of one spouse is not imputed to other spouse.
- c. Items on checklist below are “red flags” that may get the attention of the taxing entity and may be deemed evasive conduct:

[see checklist next page]

POTENTIAL FRAUD AND WILLFUL EVASION CHECKLIST

- 1 - Membership in a tax protest organization?
- 2 - Engaged in a pattern of unfiled returns? Why?
- 3 - Filed a fraudulent, frivolous, blank or incomplete return?
- 4 - Repeatedly understated income or overstated deductions on returns?
- 5 - A serial failure to pay taxes? Why?
- 6 - Concealed, gave away or traded away valuable assets, or transferred title?
- 7 - Sold assets way below fair value? (especially to insiders such as family members, employers, business associates, etc.)
- 8 - Set up "abusive" trust or sham tax shelter and transferred assets to it? An abusive trust probably exists if debtor was facing tax debt at time of set-up, and he maintains control of, or benefit use of, assets of the trust.
- 9 - Is he a beneficiary of family trust, business trust or other trust?
- 10 - Did he set up the trust?
- 11 - Did he transfer valuable assets to the trust?
- 12 - Does he have unfettered control of trust assets?
- 13 - Does he have benefit of use of trust assets?
- 14 - Are his personal living expenses paid by the trust?
- 15 - Does he not report trust payments as taxable income to himself?
- 16 - Trust has no "economic reality"?
- 17 - Created a corporation and transferred assets to it?
- 18 - Changed bank or bank account frequently?
- 19 - Closed bank account and conducted business in cash only?
- 20 - Added another person's name to bank account?
- 21 - Deposited income in another's bank account?
- 22 - Used a foreign bank account?
- 23 - Changed name? Changed spelling of name?
- 24 - Changed SSN?
- 25 - Had an altercation with a revenue officer?
- 26 - Engaged in money laundering?
- 27 - Withdrew cash from bank and hid it? See *In re Bernard*, 96 F.3d 1279-debtor simply withdrew \$64,000 from bank account in order to keep away from levy - held, fraudulent transfer and discharge denied!
- 28 - Claimed incorrect number of exemptions on tax return?
- 29 - Purchased property in someone else's name?
- 30 - Refused to cooperate with a revenue officer, or deliberately obstructed audit or investigation
- 31 - Lost, concealed or destroyed financial documents?
- 32 - Maintained inadequate records?
- 33 - Concealed actual residence address or business address?
- 34 - Traded valuable assets for less valuable assets?
- 35 - Devising clever schemes such as divorcing his wife and directing all income to her and renting a room in her house, thus eliminating most income that could be

traced to husband to satisfy husband's tax claims.

36 - Living a "lavish lifestyle" knowing that delinquent taxes had not been paid.

IV. DISCHARGE OF INCOME TAX IN CHAPTER 13

1. "Bad boy" conduct under Section 523(a)(1)(B) and (C) was dischargeable in chapter 13 - failure to file, late filing, fraud and willful evasion under BAPCPA no longer dischargeable.
2. SAME SIX RULES APPLY FOR CHAPTER 13 AS CHAPTER 7
 - a. Note, a § 507 priority income tax is not dischargeable in Chapter 7 but is technically dischargeable in Chapter 13 - See 4 below.
3. BAPCPA makes post-petition interest an issue.
 - a. In chapter 13 interest on a tax claim continues to accrue during the plan.

The issue is, is that postpetition interest discharged?

In most jurisdictions accruing postpetition interest on an unsecured non-dischargeable claim cannot be paid through the plan unless the plan is a 100% plan. § 1322(b)(10). So what happens to the postpetition interest?

- b. BAPCPA makes § 523 income taxes and 507 trust-fund taxes nondischargeable; interest follows the tax: If the tax is nondischargeable, neither is the interest.
4. The super-discharge still applies to some extent; priority personal income taxes, never dischargeable in chapter 7, are discharged in chapter 13 if IRS fails to file a timely claim.

Why? Because priority personal income taxes are not excepted from discharge in chapter 13 per 11 U.S.C. 1328(a).

V. THERE ARE FOUR CATEGORIES OF INCOME TAX UNDER BAPCPA

Identifying the category is critical to treating an income tax in Chapter 13.

1. Section § 523 income taxes "bad boy" taxes: Nondischargeable.
 - Postpetition interest continues to accrue.
 - Accrued postpetition interest is not discharged

CAVEAT: Warn client that he/she will be personally liable for the accrued postpetition interest following the discharge.

2. Section 507 priority income taxes
 - a. Dischargeable in chapter 13 – But plan must provide for full payment. Check for IRS Proof of Claim.
 - b. Accrued postpetition interest is discharged.
3. Income Tax is both §523 *and* § 507:
 - a. Both nondischargeable and priority:
 - b. Is the postpetition interest dischargeable?
 Is it interest on the § 523 tax, or rather on the § 507 tax?
4. Neither § 523 nor § 507: Fully dischargeable in both 7 & 13.

VI. MAKING A § 523 TAX ALSO A PRIORITY TAX IN CHAPTER 13.

1. What? If the tax is a § 523 tax and is unassessed, it is not a priority tax. (§ 507(a)(8)(A)(iii)). - won't be paid.
2. Why? So it can be paid through the chapter 13.
3. Create priority status by filing the tax return prior to filing bankruptcy, waiting until the tax is assessed, and filing the petition within 240 days of the tax assessment date.

VII. SUPERDISCHARGE SURVIVES IN PART

“Bad boy” conduct under Section 523(a)(1)(B) and (C) was dischargeable in chapter 13; under BAPCPA no longer dischargeable. And trust-fund priority taxes under § 507(a)(8)(C) are now nondischargeable;

But the superdischarge still remains for important tax liabilities:

1. Taxes affected: Most categories of priority taxes are still technically dischargeable, as long as they do not fall under § 523(a)(1)(B) or (C). § 1328(a).

Relevance: Post petition interest

The pre-BAPCPA “catch 22” still remains; plan must provide for full payment of all priority taxes.

2. Tax penalties. The superdischarge remains for tax penalties: penalties are never priority taxes and are dischargeable no matter when assessed or when the triggering event happened. §523(a)(7)(A) and (B); §1328(a). Interest on the penalty also dischargeable.

3. Interest. The interest follows the tax; if the tax is dischargeable, so is the interest.

VIII. CHAPTER "20" LIMITED (but not entirely!) BY BAPCPA

BAPCPA created a waiting period of several years between filing date of a prior bankruptcy resulting in discharge and a subsequent chapter 13 filing.

As a result, the strategy formerly used in appropriate cases of first filing a chapter 7, and upon discharge immediately filing a chapter 13, is impacted by the BAPCPA provisions; unless the waiting period expires before the chapter 13 is filed the debtor cannot get a discharge in the chapter 13.

However, the Chapter "20" may still have value for the debtor: Even though he/she is not eligible for a discharge in the subsequent chapter 13, he/she is still eligible to be a debtor in chapter 13, thus getting the protection of the stay and a court-approved payment plan to pay nondischargeable debts. And interest and penalties will stop.

IX. TAX LIENS CAN STILL BE STRIPPED-DOWN

The BAPCPA changes restricted the debtor's ability to strip-down a lien under certain circumstances for motor vehicles and other personal property. "Hanging paragraph" following paragraph "9" of § 1325(a).

But the restrictions apply only to "Purchase Money Security Interests" (PMSI) and tax liens are not PMSI. Allocate value of property covered by lien to oldest year first.

X. DISCHARGE OF OTHER TAX LIABILITIES

1. Non-pecuniary penalties (i.e., all penalties except trust-fund recovery penalty) are never priority in chapter 13 and always dischargeable subject only to whether secured by liens. In chapter 7, penalties are dischargeable if the event causing the penalty is over 3 years old. § 523(a)(7)(B).
2. Payroll (trust-fund) taxes are priority and nondischargeable in either chapter 7 or chapter 13, but only the tax portion of the 941 claim. See note below:

NOTE: The typical delinquent IRS 941 tax liability is only about 2/3 actual withholding trust fund; about 1/3 is insurance, penalties, and other dischargeable claims that make up a 941 liability. Avoid scheduling the entire 941 debt as a priority debt in the schedules and plan.

XI. TOLLING & DELAYING EVENTS.

Certain previous events in the tax history may extend or delay one or more of the three “time rules.” Refer to ¶ II, Six Rules For Discharging Income Taxes.

1. Prior Bankruptcy.

a. Hanging paragraph following paragraph 12 of Section 507(a)(8)(G) provides that certain time periods are suspended for any time during which a stay of proceedings against collection was in effect in a prior bankruptcy:

b. Tolls the 3-year period for time stay overlaps, plus 90 days.

c. Tolls the 240-day period for time stay overlaps, plus 90 days.

i. No longer add 6 months to 3 year tolling period. Add 90 days.

ii. Serial bankruptcy filings within 90 days of each other (time from discharge or dismissal of first bk is less than 90 days to filing of second bk). Do you add 90 days for each one?

d. Does not toll 2-year period.

2. Extension to File Return. Delays the start of the 3-year period. For IRS, the first extension requested by the taxpayer extends the due date to October 15 (leapfrogs over August 15).

3. Tax Litigation. Delays assessment and, therefore, start of 240-day assessment period. Add period in which appeal can be filed.

4. Offer-In-Compromise.

a. Tolls 240-day period, for the time the OIC was “in effect” or “pending” and overlaps the 240-day period, plus 30 days;

1. An offer in compromise could be deemed “in effect” for years, if the offer settlement was structured as a monthly payment to be made under a “Periodic Payment Offer” or “Deferred Periodic Payment Offer.” Internal Revenue Manual (I.R.M.) Section 5.8.1.9.4.

2. Time OIC is on “appeal” is likely to be deemed “pending.” Most of the few

bankruptcy cases dealing with the topic treat time an offer is on appeal as “pending.”

b. OIC does not ordinarily toll the 3-year period.

Section 507(a)(8)(A)(ii) specifically prescribes that for the time a pending or “in effect” OIC overlaps the 240 day period, the running of the 240-day period is tolled plus 30 days; it does not include the 3-year period, and § 507(a)(8)(A)(i), laying out the 3-year rule, does mention offers in compromise as a tolling event.

The making of a “processable” offer in compromise prohibits levy. 26 U.S.C. § 6331(k). But the mere *making* of an offer, by itself, is not a “request for a hearing and an appeal” as prescribed by the hanging paragraph (because IRS offers are accepted or rejected without a “hearing” unless appealed). Plus, the system provides for an appeal of a rejected offer suggesting that the original making of the offer, without more, is not an appeal *per se*.

c. Appealed OIC.

But in the event the OIC is rejected, the Tax Code provides an *administrative appeal*, which probably falls under the phrase “request for a hearing and an appeal ...” 26 U.S.C. § 7122. And, levy is still prohibited while on appeal. 26 U.S.C. 6331(k) and Internal Revenue Manual § 8.23.1.2.

However, the hanging paragraph qualifies the phrase “request for a hearing and an appeal” “by adding “of any *collection action* taken or proposed against the debtor, plus 90 days.” If the debtor submitted his/her offer where collection action had not been taken or proposed, is the debtor’s “appeal” one that qualifies as a tolling event?

If so, then the time a rejected OIC is on appeal may toll the 3-year period as well as the 240-day period.

d. OIC filed in connection with a Collection Due Process Hearing.

CAVEAT: Many OICs are filed during the course of a request for a “Collection Due Process” hearing (see “5” below). While the making of the OIC does not toll the 3-year period, the accompanying CDP hearing, which is a request for a hearing and an appeal, tolls both periods, because the CDP request tolls the periods. Section 507(a)(8)(G) hanging paragraph. Thus, in looking at the taxpayer’s history, a finding of a previous or pending offer-in-compromise is a red flag that should trigger looking for a request for a CDP hearing, as well.

5. Request for Collection Due Process Hearing. 26 U.S.C. § 6220, § 6330.

- a. Tolls the 3-year period.
- b. Tolls the 240-day period.

Both the 3-year and 240-day rule are suspended for any time period, plus 90 days, during which a governmental unit is “prohibited” under nonbankruptcy law from “collecting” a tax “as a result of” a request by the debtor for a hearing and appeal of any collection action taken or proposed against the debtor (Section 507(a)(8)(G) hanging paragraph).

Query: if the I.R.S. can still file a lien, is it “prohibited” from “collecting?”

The taxpayer’s request for a “collection due process hearing is a request for a hearing and, in essence, an appeal of a proposed collection effort. The CDP procedure is found in the “Appeal” section of the Internal Revenue Manual. The taxpayer’s opportunity to file the request for CDP is the 30day period following the issuance of a “Final Notice of Intent to Levy” or a notice of tax lien. Upon filing a timely request for a CDP hearing all levy action must stop pending the disposition of the hearing.

6. Installment plan - does not toll

A request for an installment plan generally stops levy action. However, it does not toll any of the periods. The Bankruptcy Code does not mention tax installment payment plans. The IRM section on installment plans is in the “Collection” part, not the “appeals” part of the Manual. Thus, the IRS does not treat it as an appeal. Furthermore, the making of a request for an installment plan does not require a hearing for disposition.

Thus, installment plans do not appear to fall within any category described in the hanging paragraph following 11 U.S.C. § 507(a)(8)(G).

There have been no bankruptcy cases found that deal with the ostensible tolling effect of an installment plan.

XII. USING THE TRANSCRIPTS

IMPORTANT:

You must refer to the IRS “Account Transcripts” to determine whether all of the 6 rules have been satisfied, whether or not there have been any tolling events, and whether liens have been recorded (see discussion of liens below)

1. Do not confuse "Account Transcript" with "Transcript of Return": A transcript of return is the transcript the debtor can provide the trustee in lieu of a copy of his/her most recent tax return. An Account Transcript (formerly called a MFTRA-X) is a history of the liability for a particular year. These two transcripts are very different from each other; the one you need to determine dischargeability of taxes is the "Account Transcript."
2. See sample Account Transcript at end of outline with instructions on what to look for.
3. Obtaining the Account Transcripts.

The Account Transcripts (one for each year a liability is owed) can be obtained several ways. The IRS has set up a way to obtain them electronically, with a password, etc. However, this is a complicated process to set up with the IRS and most tax professionals are not using it.

A simpler way is to call the IRS Priority Hotline, which can get the transcripts to you within 24 hours (no charge):

- a. First have client sign an IRS Form 8821 or 2848.
- b. Have client's name, SSN and address at hand;
- c. Have your fax number at hand.
- d. Call the Hotline at the IRS Hotline phone number.

IRS Priority Hotline tel. # is (866) 860-4259.

- e. Explain that you are an attorney or POA holder and need account transcripts for your client.
- f. The IRS person will ask you your name and "CAF" number (Centralized Authorization File). If you don't have a CAF number, don't worry. She will probably issue you one on the spot.
- g. The IRS person will give you his/her fax number and wait on hold until you fax the 8821 or 2848 to him/her.
- h. He/she will fax you the transcripts, ordinarily within a few hours. They will also follow-up with copies in U.S. mail to your office address.

NOTE: He/she may ask you for information about your client, such as name, SSN, current address, and place of work. They are instructed to do this. If all you have handy is the name and SSN, then tell them you don't have anything else handy.

XIII. TAX LIENS IN BANKRUPTCY

1. Effect of Valid Prepetition IRS Lien; General Lien Rules. The existence of a lien recorded in client's county of residence may negate the effect of a discharge.

a. General Effect: 11 U.S.C. Section 524 bars creditors, including the IRS, from seeking to collect discharged debts from the debtors personally. However, tax liens that are still valid may be enforceable against property owned by the debtor before bankruptcy, even though the tax debt has been discharged.

b. Excluded Property: Reminder: Property excluded from the bankruptcy estate may be pursued after discharge even if no Notice of Federal Tax Lien has been filed, e.g., an ERISA-qualified plan.

2. Secret Lien:

A filed/recorded lien does not make a tax debt a priority obligation. It simply secures the payment of the amount in the lien to the extent of the value of the Debtor's property. The Internal Revenue Service also has what is referred to as a "secret" lien. This automatically arises upon the assessment of a tax liability but is not recorded anywhere. However, the Internal Revenue Service does not assert the effect of this "secret" lien as a lien in a bankruptcy because the trustee has the status of a judgment lien creditor as of the petition filing date under Section 544 of the Bankruptcy Code and so can avoid the "secret" lien.

3. Not avoidable on exempt property

4. After acquired property

Unlike judgment liens which can ordinarily be voided as to the debtor's exempt property, tax liens pierce the exemptions, even for discharged taxes.

a. Discharged tax

1. A lien survives the bankruptcy but only as to property owned by the Debtor at the time of the bankruptcy filing.

2. If a tax is dischargeable you can do lien stripping in a Chapter 13. The restrictions on lien stripping for vehicles and other personal property pursuant to BAPCPA Section 1325(a)(9) apply only to purchase money security interests and tax liens are not purchase money security interests. You cannot lien strip in a Chapter 7 but administratively you may get the same result.

b. Nondischarged tax

The lien survives bankruptcy as to all of the Debtors' present and future property, including after-acquired property. As BAPCPA makes more taxes non-dischargeable, it becomes even more important to avoid having a Debtor acquire property after the bankruptcy is over if there remain tax liabilities that have to be resolved with the Internal Revenue Service.

c. Bankruptcy Not Filed

If bankruptcy is not filed, the lien covers all property acquired throughout the lifetime of the lien.

5. Competing liens:

There will always be a question as to whether the IRS lien is prior in time to any other lien that is filed. You must check your county recorder records to determine the status of the IRS lien in the chain of title regarding any property.

6. Property covered:

- a. Realty -For realty to be covered by an IRS lien, the lien must be filed in the county where the land is found.
- b. Personal – The lien must be recorded in the county of taxpayer's residence. All personal property is deemed to be at the residence of the Debtor at the time the lien is filed regardless of where it actually is and the lien thereafter automatically follows the taxpayer and his personal property if he should move out of county or out-of-state.

NOTE: If the taxpayer has moved around in recent years it's quite possible the IRS lien has not been recorded in the county where the taxpayer resides, or where the real property is located. Do an online public records search for tax liens and where and when the liens were recorded.

e.g. Accurint.com

7. Self-releasing:

The Internal Revenue Service lien form states on its face that upon the expiration of the collection period, the notice of federal tax lien shall "operate as a certificate of release." This means the Internal Revenue Service will not actually file a second piece of paper stating the lien has been released. The problem this creates is the original lien filing will continue to appear of record in not only the county filings but also on the debtor's credit report. If the lien liability has legally been satisfied or the lien has self-released, it will be necessary to send copies of the original lien and the discharge to the credit reporting

agencies in order to ask them to remove the original lien filing as a matter of record or to otherwise note the lien has been released.

8. Strip-down still permitted:

An undersecured tax lien for a dischargeable tax may be stripped down in chapter 13.

The limitation on lien stripping under BAPCPA applies only to "Purchase money security interests" and a tax lien is not a PMSI. 11 U.S.C. § 1325(a)(9)

9. Miscellaneous:

- a. A federal tax lien is a general lien, not a property specific lien.
- b. A federal tax lien attaches to all property or rights to property of the taxpayer and its reach is not limited by state law exemptions or federal exemptions.
- c. The lifetime of a lien is coincident with the collection period that otherwise exists for the tax liabilities that are covered by the lien. The statute of limitations for collection is 10 years from the assessment date plus any tolling time.
- d. No property is exempt from the I.R.S. tax lien, whether it be a recorded or the secret" lien (§ 522(c)(2)(B)). Although some property may be excluded from the estate, e.g., an ERISA-qualified plan, and thus treated as unsecured for Chapter 13 purposes, all other property is subject to a recorded IRS lien and acts as security for it. As to property excluded from the estate, the value of that property does not have to be included in the valuation of property for determination of the secured amount that must be paid to the IRS as part of a Chapter 13 plan.
- e. A secured tax claim should be separately classified from unsecured priority claims and unsecured general claims. There may be limited circumstances where you would be better off having the IRS in a secured position than having them as an unsecured creditor or having a tax liability that is otherwise nondischargeable and not priority.
- f. Under the Taxpayer Bill(s) of Rights, taxpayers now have the right to request a Collection Due Process Hearing if they disagree with either proposed collection by levy or lien recordation action of the Internal Revenue Service. As to a threat of levy, the taxpayer is given the opportunity to request the hearing prior to the IRS actually making a levy. However, as to the CDP hearing in regard to a lien, the lien will have first been recorded. It will be a very unusual case where the IRS will, as part of the collection due process procedure, agree to release a lien.

- g. Under-secured tax liens for discharged taxes are typically bifurcated into their respective secured and unsecured portions for purposes of the schedules and treatment in a chapter 13 plan.

XIV. OTHER TAX CHANGES IMPOSED BY BAPCPA

Tax Returns Or Transcripts: Filing, Producing and Providing For The Court, The Trustee or Creditors

1. BAPCPA requires that a debtor, upon request, file copies of Federal income tax returns or transcripts with the Court (11 U.S.C. Sec. 521(f)(1)-(3)).
 - a. The debtor must be an “individual;”
 - b. The request can be made by the Court, the United States trustee or any party in interest in a case under chapter 7, 11 or 13;
 - c. The filing is to be done at the same time the debtor files the return with the taxing authorities; however, the debtor can elect to provide the Court with a “transcript” of such return;
 - d. There must be a copy with respect to
 - I. Each tax year of the debtor ending while the case is pending, and
 - II. each tax year for which a return had not been filed before the commencement of the case but which was subsequently filed for any tax year ending in the 3-year period ending on the bankruptcy petition filing date; and
 - e. There must be a copy of each amendment to any required return.
2. BAPCPA requires that “not later than 7 days before the date first set for the first meeting of creditors” the debtor provide the case trustee with “a copy of the debtor’s Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such return) for the most recent tax year ending immediately before” the bankruptcy petition was filed and for which that return was filed (11 U.S.C. 521(e)(2)(A)(i). Note, this transcript, called a Transcript of Return, differs from the Account Transcript discussed earlier.
 - a. At the same time the return or transcript is provided to the trustee the debtor must provide a copy (of the same return or transcript) to any creditor who has timely requested a copy. That request will be timely if made at least 15 days before the first date set for the 341 creditors meeting (11 U.S.C. 521(2)(A)(ii); Interim Bankruptcy Rule 4002(b)(4)).

- b. If the debtor fails to provide a required return or transcript, “the court SHALL dismiss the case” unless the debtor “demonstrates” such failure was due to circumstances beyond the debtors’ control (emphasis supplied). (11 U.S.C. Sec. 521(e)(2)(B).)

3. Maintaining Privacy.

The tax returns and amendments required by Section 521(e)(2)(A) and the statement of income and expenditures required by Section 521(f) (see #4, infra), shall be available to the United States trustee, the trustee and any party in interest for inspection and copying, subject to the requirements of section 315(c) of BAPCPA. (11 USC Section 521(g)(2).)

4. Chapter 13 Requirements.

A) Annual Statements Of Income And Expenditures. BAPCPA requires that at the request of the Court, the United States trustee or any party in interest in a case under Chapter 13, an individual debtor shall file with the Court a sworn statement of the income and expenditures of the debtor during the preceding tax year and of the monthly income of the debtor showing how those figures are calculated. (11 U.S.C. Sec. 521(f)(4).) Actual access to the statement will be subject to confidentiality safeguards to be implemented.

(1) Contents Of Statement. In addition to the requirements of 521(f)(4) the sworn statement shall disclose:

(i) the amount and sources of the debtor’s income;

(ii) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and

(iii) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides. (11 U.S.C. Sec. 521(g)(1).)

(2) Time For Filing. The statements must be filed one year after the case is filed or 90 days after the end of “such tax year,” whichever is later, if a plan is not confirmed before such later date and annually after the plan is confirmed at least 45 days before the anniversary of confirmation.

(a) It is somewhat unclear which tax year is referred to by “such tax year” since the preceding paragraphs of Section 521(f)(1-3) refer to more than one tax year. Presumably, since that language applies only before confirmation, the reference is to the first tax year that ends after the case is filed.

B) 4 Years Of Tax Returns. New Section 1308 requires Chapter 13 debtors to file with appropriate taxing authorities, by the day before the first scheduled 341 creditors

meeting, all tax returns the debtor was required to file under applicable nonbankruptcy laws for all taxable periods ending in the four years before the bankruptcy petition filing date.

(1) No language referring to “transcripts.”

(2) This requirement is not limited to Federal income tax returns. Compare Section 521(e)(2)(A) and (f), supra, Section 6.

(3) Presumably this provision includes only returns that have not been filed if one was required to have been filed.

(4) If the returns are not filed by the deadline, the trustee may hold the section 341 meeting date open for up to 120 days for any return that was past due or, for a return that was not past due on the petition date, the later of the date that is 120 days after the date of that meeting or until the latest extension date for which the debtor had timely applied.

(5) If returns are not timely filed, the debtor may request a hearing to explain why. The debtor must demonstrate by a preponderance of the evidence that the failure to timely file a return as required by Section 1308 was attributable to circumstances beyond his control. If the Court finds in the debtor’s favor and enters its order prior to the tolling of any applicable filing periods provided by Section 1308(b)(1), the Court may extend the filing period established by the trustee (a) for a period of not more than 30 days for a return that was past due when the bankruptcy petition was filed or (b) for a period not to extend after the applicable extension date for a return that was not past due as of the bankruptcy petition date.

(6) Most importantly, for purposes of Section 1308 the term “return” includes a return prepared pursuant to subsection (a) or (b) of IRS Section 6020, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal. (11 U.S.C. Section 1308(c).) Note, a “return” prepared under Section 6020(b), however, is not a “return” for purposes of the 2-year rule. See Paragraph III - 2-a, supra.

(7) No plan confirmation unless debtor complies with Section 1308.
(11 U.S.C. Section 1325(a)(9).)

5. Setoff of Tax Refunds. New Section 362(b)(26) provides an exception to the general automatic stay provision of the Bankruptcy Code. Taxing authorities can setoff tax refunds for pre-petition tax periods against pre-petition tax debts. If there is an action pending to determine a tax liability, the government may hold the refund pending resolution of the action. However, after a hearing, the Court can order the turnover of the refund to the bankruptcy trustee provided the taxing authority is granted adequate protection for any secured claim it may have based on its setoff rights.

6. Discharge of Penalties.

A) Non-Pecuniary Loss Penalties -Non-Dischargeable (Within Three Year Rule).

Pursuant to 11 U.S.C. Section 523(a)(7), Exceptions to Discharge, a non pecuniary loss penalty (a punitive penalty) is non-dischargeable if:

(1) it relates to a tax that is non-dischargeable under 11 U.S.C. Section 523(a)(1), that is, Section 507(a)(8) priority taxes and “bad boy” taxes (see p.2, par. 1-A) of this outline), or:

(2) if the transaction or event that gave rise to the penalty occurred within **the** three years before the bankruptcy was filed.

The “transaction or event” with respect to failure to file and failure to pay penalties means the failure to file a return and pay the tax on the due date.

Examples of non-pecuniary loss penalties are failure to file penalties, frivolous filing penalties, and penalties for fraud or willful misconduct, late filing, etc.

B) Non-Pecuniary Loss Penalties -Dischargeable (Outside Three Year Rule). Courts have also held any non-pecuniary tax penalty more than three years old from the bankruptcy petition filing date is dischargeable even if the underlying tax is deemed to be non-dischargeable. Therefore, any non-pecuniary tax penalty imposed with respect to a transaction or event that occurred more than three years before the date the debtor filed for bankruptcy is dischargeable.

C) Pecuniary Loss Penalties. The Trust Fund Recovery Penalty (TFRP), a pecuniary loss penalty (assessed to reimburse and compensate the government for an actual loss of taxes) is *not* dischargeable, even if the TFRP assessment date is more than three years from the bankruptcy petition date. (11 U.S.C. Sec. 1328(a)(2).) And, it remains a priority debt. (11 U.S.C. Sec. 507(a)(8)(C).)

(1) The typical “941” liability for a sole proprietor includes the employer’s portion of the social security tax, which is 50% of the social security assessment, and is dischargeable, with any interest that accrued on it, if the return filing satisfies the 3 year due date rule. (11 U.S.C. Sec. 507(a)(8)(D).)

The superdischarge provisions in a Chapter 13 case applied for a TFRP assessment when the bankruptcy petition was filed prior to October 17, 2005. Trust fund taxes for cases filed on or after October 17, 2005, are not dischargeable even when the IRS files an untimely claim or does not file a claim at all. (11 U.S.C. Sec. 1328(a)(2).) However, the failure to file a proof of claim for a priority, non-section 523 personal income tax will still result in a discharge.

7. Post-BAPCPA Exceptions To Discharge Due To Prior Bankruptcy Filing.

A) Chapter 7.

(1) Must wait 8 years from filing date of previously filed Chapter 7 if a discharge was received. (11 U.S.C. Section 727(a)(8).)

(2) If the debtor has been granted a discharge in a prior Chapter 13 case commenced within 6 years prior to the new Chapter 7 filing date, no discharge can be granted unless payments under the prior Chapter 13 plan totaled at least (1) 100% of allowed unsecured claims or (2) 70% of such claims and the plan was proposed by the debtor in good faith and was the debtor's best effort. (11 U.S.C. Section 727(a)(9).)

B) Chapter 13.

(1) New Chapter 13 petition filing date must be more than 4 years after the filing date of a prior Chapter 7, 11 or 12 in which the debtor received a discharge during such 4 year period (11 U.S.C. Section 1328(f)(1).)

(2) If a discharge was received in a prior Chapter 13 case, a new Chapter 13 petition filing date must be more than 2 years after the filing date of the prior Chapter 13 if a discharge is to be available in the new case. (11 U.S.C. Section 1328(f)(2).)

(a) Note, from a practical standpoint, as a discharge in most Chapter 13 cases will not be entered until at least 3 years after the filing date has passed a prior Chapter 13 filing will almost never be a bar to a second Chapter 13 filing.

(3) Under prior law there was no bar to obtaining a Chapter 13 discharge after a prior discharge; and

(4) Even if a discharge is not available you may want to file a new Chapter 13 for a debtor who owes taxes that were nondischargeable in the prior Chapter 13, e.g., "bad boy" items, so the taxes can be paid. Of course, all other Chapter 13 protections will be available.

8. Effect of bankruptcy on offer in compromise

A bankruptcy and an OIC may be incompatible.

a. IRS policy is not to consider an OIC while the debtor is in bankruptcy.
IRM § 5.8.10.2.1.

However, IRM provisions do not have the effect of law, and may be

disregarded by the bankruptcy courts. Cases are split.

b. Where the debtor is in an approved OIC that involves an installment payment plan, the filing of the bankruptcy results in the OIC being deemed an executory contract by the IRS.

READING THE IRS "ACCOUNT TRANSCRIPT"

Most frequently seen significant Code numbers:

IRS Priority Hotline (866-860-4259)

150 = SFR filed or tax assessed (is not the date the return was filed)

460 = Extension to file return

240 = Penalty - may indicate fraud or tax evasion conduct.

290 = Additional tax assessed

300 = Additional tax assessed

320 = Fraud penalty

420 = Audit commenced (421 = ended) (may not appear on transcript)

480 = Offer-in-compromise submitted (481 = rejected, withdrawn)

520 = Prior bankruptcy, tax litigation or Collection Due Process request filed (521 = ended)

(520+ 77 = CDP for levy, 76 = CDP for lien)

582 = Tax lien filed (does not list which county)

608 = Statute of limitations expired

780 = Offer-in-compromise accepted (781 = defaulted)

971 = Could be a lot of things:

971 + 031 = Discharged in BK

971 + 069 = Final notice of intent to levy

971 + 275 = Request for due process hearing received

976, 977 = "Amended tax return filed" (could be laet original)

910, 914, 916, 918 = Criminal investigation

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Internal Revenue Service
DEPARTMENT OF THE TREASURY

e-services

2

This Product Contains Sensitive Taxpayer Data

1

Account Transcript

Request Date: 12-10-2006
Response Date: 12-18-2006
IRS Employee Number: 83918
Tracking Number: 100011250501

3

FORM NUMBER: 1040 TAX PERIOD: Dec. 31, 1993

4

TAXPAYER IDENTIFICATION NUMBER: 569-~~XXXXXXXXXX~~
SPOUSE TAXPAYER IDENTIFICATION NUMBER: 524-~~XXXXXXXXXX~~

ROBERT S & N
<<<<POWER OF ATTORNEY/TAX INFORMATION AUTHORIZATION (POA/TIA) ON FILE>>>>
Any minus sign shown below signifies a credit amount.

| | | |
|-------------------|-----------|----------------------|
| ACCOUNT BALANCE: | 27,214.66 | |
| ACCRUED INTEREST: | 17,986.24 | AS OF: Jan. 01, 2007 |
| ACCRUED PENALTY: | 640.92 | AS OF: Jan. 01, 2007 |

5

ACCOUNT BALANCE
PLUS ACCRUALS: 40,041.82

** EXEMPTIONS: 04 ** FILING STATUS: Married Filing Joint

6

| | |
|--------------------------------|-----------|
| ** ADJUSTED GROSS INCOME: | 91,467.00 |
| TAXABLE INCOME: | 64,274.00 |
| TAX PER RETURN: | 1,304.00 |
| ** SE TAXABLE INCOME TAXPAYER: | 57,600.00 |
| ** SE TAXABLE INCOME SPOUSE: | 0.00 |
| ** TOTAL SELF EMPLOYMENT TAX: | 9,757.00 |

7

** PER RETURN OR AS ADJUSTED
RETURN DUE DATE OR RETURN RECEIVED DATE (WHICHEVER IS LATER): Apr. 15, 1994
PROCESSING DATE: May 16, 1994

TRANSACTIONS

8

| CODE | EXPLANATION OF TRANSACTION | CYCLE DATE | AMOUNT |
|------|----------------------------|------------|--------|
|------|----------------------------|------------|--------|

| | | | | |
|----|-----|--|---------------------|-------------|
| 8 | 150 | RETURN FILED AND TAX ASSESSED 29221-110-91647-4 | 19941800 05-16-1994 | \$1,304.00 |
| | 716 | OVERPAID CREDIT FROM PRIOR TAX PERIOD | 04-15-1993 | -\$1,615.00 |
| | 760 | EARNED INCOME CREDIT | 04-15-1994 | -\$1,511.00 |
| | 036 | OVERPAYMENT CREDIT ELECT TRANSFERRED TO NEXT TAX PERIOD | 04-15-1994 | \$1,022.00 |
| 9 | 560 | ASSESSMENT STATUTE EXPIRATION DATE EXTEND TO 04-15-1998 | 03-19-1997 | \$0.00 |
| | 320 | FRAUD PENALTY | 19982508 07-06-1998 | \$12,836.25 |
| | 240 | MISCELLANEOUS PENALTY IRC 6662 (b) ACCURACY PENALTY 09247-563-00360-8 | 19982508 07-06-1998 | \$1,209.00 |
| 10 | 765 | EARNED INCHE CREDIT REVERSED | 04-15-1994 | \$1,511.00 |
| | 300 | ADDITIONAL TAX ASSESSED BY EXAMINATION 09247-563-00360-8 | 19982508 07-06-1998 | \$21,653.00 |
| | 336 | INTEREST ASSESSED | 19982508 07-06-1998 | \$16,660.11 |
| | 670 | SUBSEQUENT PAYMENT MISCELLANEOUS PAYMENT | 07-16-1998 | -\$2,000.00 |
| | 670 | SUBSEQUENT PAYMENT MISCELLANEOUS PAYMENT | 08-26-1998 | -\$2,000.00 |
| | 670 | SUBSEQUENT PAYMENT MISCELLANEOUS PAYMENT | 09-21-1998 | -\$2,000.00 |
| 11 | 670 | SUBSEQUENT PAYMENT MISCELLANEOUS PAYMENT | 11-05-1998 | -\$2,000.00 |
| | 480 | OFFER IN COMPROMISE PENDING | 12-11-1998 | \$0.00 |
| | 670 | SUBSEQUENT PAYMENT MISCELLANEOUS PAYMENT | 12-29-1998 | -\$1,500.00 |
| | 670 | SUBSEQUENT PAYMENT MISCELLANEOUS PAYMENT | 01-26-1999 | -\$1,500.00 |
| | 670 | SUBSEQUENT PAYMENT MISCELLANEOUS PAYMENT | 02-23-1999 | -\$1,500.00 |
| | 670 | SUBSEQUENT PAYMENT MISCELLANEOUS PAYMENT | 03-23-1999 | -\$1,500.00 |
| 12 | 706 | OVERPAID CREDIT APPLIED 1040 199712 | 10-29-1998 | -\$205.11 |
| | 706 | OVERPAID CREDIT APPLIED 1040 199712 | 07-12-1999 | -\$3.39 |
| | 780 | OFFER IN COMPROMISE ACCEPTED | 11-04-1999 | \$0.00 |
| | 670 | SUBSEQUENT PAYMENT OFFER IN COMPROMISE | 11-19-1999 | -\$1,017.00 |
| | 270 | FAILURE TO PAY TAX PENALTY | 20000408 02-07-2000 | \$1,536.15 |
| | 340 | RESTRICTED INTEREST ASSESSED | 20000408 02-07-2000 | \$4,766.15 |
| | 290 | ADDITIONAL TAX ASSESSED 09254-413-00011-0 | 20000408 02-07-2000 | \$0.00 |
| | 670 | SUBSEQUENT PAYMENT OFFER IN COMPROMISE | 12-16-1998 | -\$2,000.00 |
| | 670 | SUBSEQUENT PAYMENT | 12-22-1999 | -\$1,817.00 |

| | | | |
|-----|--|---------------------|-------------|
| | OFFER IN COMPROMISE | | |
| 670 | SUBSEQUENT PAYMENT OFFER IN COMPROMISE | 01-24-2000 | -\$1,817.00 |
| 670 | SUBSEQUENT PAYMENT OFFER IN COMPROMISE | 02-22-2000 | -\$1,817.00 |
| 670 | SUBSEQUENT PAYMENT OFFER IN COMPROMISE | 03-27-2000 | -\$1,817.00 |
| 670 | SUBSEQUENT PAYMENT OFFER IN COMPROMISE | 04-19-2000 | -\$1,817.00 |
| 670 | SUBSEQUENT PAYMENT OFFER IN COMPROMISE | 05-25-2000 | -\$1,817.00 |
| 670 | SUBSEQUENT PAYMENT OFFER IN COMPROMISE | 06-23-2000 | -\$1,817.00 |
| 670 | SUBSEQUENT PAYMENT OFFER IN COMPROMISE | 07-28-2000 | -\$1,817.00 |
| 271 | FAILURE TO PAY TAX PENALTY AWATED | 03-05-2001 | -\$213.95 |
| 340 | RESTRICTED INTEREST ASSESSED | 20010809 03-05-2001 | \$3,529.33 |
| 290 | ADDITIONAL TAX ASSESSED | 20010808 03-05-2001 | \$0.00 |
| | 09254-443-00000-1 | | |
| 13 | 781 OFFER IN COMPROMISE DEFAULTED | 10-30-2001 | \$0.00 |
| | 971 INTENT TO LEVY COLLECTION DUE PROCESS NOTICE LEVY NOTICE ISSUED | 12-10-2001 | \$0.00 |
| 14 | 582 FEDERAL TAX LIEN | 03-01-2002 | \$0.00 |
| | 971 INTENT TO LEVY COLLECTION DUE PROCESS NOTICE RETURN RECEIPT SIGNED | 12-17-2001 | \$0.00 |
| 15 | 360 FEES AND COLLECTION COSTS | 04-01-2002 | \$12.00 |
| 16 | 670 SUBSEQUENT PAYMENT 000000 | 04-24-2002 | -\$167.85 |
| | 480 OFFER IN COMPROMISE PENDING | 07-02-2002 | \$0.00 |
| 17 | 481 OFFER IN COMPROMISE REJECTED | 09-25-2002 | \$0.00 |
| | 520 LEGAL/BANKRUPTCY SUIT PENDING | 12-19-2002 | \$0.00 |
| 18 | 520 LEGAL/BANKRUPTCY SUIT PENDING | 12-19-2002 | \$0.00 |
| | 521 LEGAL/BANKRUPTCY SUIT NO LONGER PENDING | 04-03-2003 | \$0.00 |
| 19 | 706 OVERPAID CREDIT APPLIED 1040 200312 | 04-15-2004 | -\$313.00 |
| | 670 SUBSEQUENT PAYMENT OFFER IN COMPROMISE | 05-30-2006 | -\$150.00 |
| | 960 RECEIVED POA/TIA | 08-21-2006 | \$0.00 |
| | 962 UPDATED POA/TIA | 08-22-2006 | \$0.00 |
| | 670 SUBSEQUENT PAYMENT LEVY | 08-29-2006 | -\$1,441.21 |
| | 670 SUBSEQUENT PAYMENT LEVY | 09-03-2006 | -\$263.06 |
| | 670 SUBSEQUENT PAYMENT LEVY | 09-17-2006 | -\$319.42 |
| | 670 SUBSEQUENT PAYMENT | 10-02-2006 | -\$107.21 |

EXPLANATION OF THE IRS ACCOUNT TRANSCRIPT¹

The numbers below refer to the circled numbers on the first page of the sample, and to the boxy numbers on pages 2 and 3.

This transcript is from an actual case and was faxed to me (and later mailed) by the IRS Priority Hotline, which is (866) 860-4259. You will need to fax a Form 8821 "Tax Information Authorization." You can go to TaxJustice.com, select "Forms," and download Form 8821. The client will have to sign.

Not all events occur, of course, in every case, so some important three-digit "codes" will not appear here; for example, the "460" code for an extension to file the return will not appear, because the client did not request an extension.

1. The title of the new IRS transcript format that replaces the previous MFTRA-X format. This format is now simply called an "Account Transcript."

2. The date the transcript was requested and provided.

3. The type of tax (e.g., "1040" = personal income tax) and the "TAX PERIOD"

Note: Just to the right of the "1040" is the tax period – In this case 1993

4. The taxpayer's identification, including SSN, name, and possibly address.

5. The balance owed, including interest and penalties, as of print date.

6. The amount of tax the taxpayer indicated was owed on his filed tax return. An actual figure here (as distinct from a -0-) indicates the taxpayer did, in fact, file his or her return (not an SFR).

7. The date the IRS deems the return to have been filed.

8. The date the "account" officially begins with code "150" (may be on the next page).

8. Code "150" is not the date the return is filed, but is rather the date of account is opened, and may be opened with an actual \$ amount assessed, or a zero if a "substitute for return."

9. Code "320" = fraud penalty. May indicate the tax is nondischargeable.

10. Code 300 = additional tax assessed (may be \$ zero). This starts another 240-day

¹ Not to be confused with a "transcript of return" which must be filed with the trustee not later than 7 days prior to the meeting of creditors. A transcript of return is a totally different kind of transcript.

period for the additional assessment, plus indicates there will probably be a state income tax piggy-back assessment. Same for code 290.

11. Code "480" shows an **offer-in-compromise** was received, which may toll the running of any 240-day period. In this case, a 240-day period was commenced when an additional tax was assessed on 07/06/1998 (code 300); when the OIC was received on 12/11/1998 (code 480) it stopped the clock on this assessment period until ??? (see item 12, code "780," offer accepted. Time is tolled plus 30 days.

12. Code "780" **offer was accepted**. Does the tolling period end there (plus 30 days)? As amended, Bankruptcy Code now provides that tolling continues while the offer is "in effect." See 11 U.S.C. § 507(a)(8)(A)(ii)(I). What does "in effect" mean?

13. Code "781" offer is defaulted, meaning after x-number of payments the client stopped making payments. Does the tolling period continue until this date, plus 30 days?

14. Code "582" IRS files a lien, but transcript will not tell what county it was filed in. This may be important to determine whether it will be deemed a secured claim in bankruptcy.

15. Code "971" IRS sends a **notice of levy**. A second notice sent no earlier than 30 days later will be a "final" notice of intent, which starts a 30-day period in which taxpayer can request a due-process-hearing, which appears to toll the running of any overlapping 3-year or 240-day period.

Code 971 by itself can mean many things, including, the tax was discharged in a prior bankruptcy, an offer-in-compromise was "fully accepted," an installment agreement was signed, one spouse filed an "Injured spouse" claim, a tax return was "examined," a "Taxpayer Assistance Order" was entered, a notice of intent to levy was mailed, etc. If the explanation appearing on the transcript is not clear, a call to the Hotline should resolve the question.

16. Code "480" client submits a **second offer-in-compromise**, which is rejected with Code "481."

17. Code "481" offer is rejected.

18. Code "520" one of three things happens; taxpayer is in litigation with the IRS, or taxpayer has filed a bankruptcy, or taxpayer has submitted a request for a due-process-hearing. The only way to know for sure is to call the IRS Hotline, or obtain a more detailed tax transcript.

19. Code "521" the 520 event ends. If a prior bankruptcy or request for due-process-hearing tolled either the 3-year or 240-day period, add 90 days. See 11 U.S.C. § 507(a)(8)(A)(ii)(I) and "hanging paragraph" following § 507(a)(8)(G).