

## **Levy protections - residence and business property**

Beware to the individual who doesn't pay his taxes. The IRS has a mighty recourse against tax shirkers known as the "levy power." Nevertheless, certain types of assets are either exempt or protected from the government's broad power to levy.

### **Levy power**

The IRS can levy on the property of any person who refuses to pay tax. Using its levy power, the government can seize the taxpayer's property by any means necessary. However, the IRS can't levy against the taxpayer's property unless it follows proper procedure, including assessment of tax, a notice and demand for payment, and a notice of the government's intent to levy. But once the levy is properly attached, any person who possesses the levied property is obligated to surrender the property, on demand, to the IRS.

### **Levy exemptions**

Under the tax rules, certain types of property-- like a reasonable amount of clothing and school books; furniture and personal effect; and unemployment benefits-- are exempt from levy by the IRS. These exemptions allow taxpayers to keep assets needed to earn a living and to pay for the necessities of life.

In addition, there are other types of assets that, although they are not completely exempt from levy, have special protections before they can be levied upon. Recent amendments to the tax rules created new levy protections for certain residential property and business assets.

### **Residence levy**

A taxpayer's residence may be protected from seizure if the levy action qualifies as a "small deficiency case." In order to qualify, the levy amount must not exceed \$5,000. The real property must be owned and used as a residence by the taxpayer or by any other individual, so long as the property is not rented.

If the taxpayer's residence doesn't fit under the "small case" exemption, it could still be afforded levy protections if it is the principal home of the taxpayer, spouse, former spouse, or minor child. In that case, the government must seek prior court approval of a principal residence levy.

### **Business assets levy**

Assets used in the individual taxpayer's trade or business are not exempt from levy if an IRS district director approves the levy or if the collection of tax is in jeopardy. However, an official may not approve the levy unless the official determines that the taxpayer's other assets subject to collection are insufficient to pay the amount due, along with the expenses of the levy proceeding.

If you have a personal or business tax deficiency, a notice and demand for payment from the IRS, or perhaps a notice of the government's intent to levy, please give our office a call. We are here to assist you.