

YOUR HOME IS YOUR CASTLE

— DON'T LET THE IRS TAKE IT —



By Mark L. Horwitz | Criminal Defense Attorney

It is the beginning of a new year and it is time to think about filing your US income tax return and paying the income tax that might be due. The failure to timely file a tax return can have significant civil as well as criminal penalties.

Civil penalties for not filing tax returns are geared towards the amount of unpaid tax. If a person files late and pays the taxes due late, there are two separate civil penalties. For the first month that the tax return is late a penalty of 5% of the unpaid tax is imposed. Thereafter, an additional 5% is added every month to a maximum of 25%. A second penalty is called a failure to pay penalty and adds 0.5% of the unpaid tax per month up to a total of 25%. In addition to these two penalties for late filing and late paying it should be remembered IRS also charges interest

that is compounded daily. Therefore, the addition of these penalties becomes even more severe because the amount of these penalties is then subject to the compounded daily interest rate applied by the IRS on unpaid tax, interest and penalties. If the IRS believes that the failure to file penalty is due to fraud, it can impose a 15% penalty per month up to a total of 75%.

The willful failure to timely file the US income tax return can subject the person to criminal prosecution. The penalty is a maximum of one year in prison. Each year that the tax return is not timely filed constitutes a separate crime. Therefore, as example, the person who is convicted of willfully failing to timely file tax returns for three years can be sentenced to three years in federal prison; this is what happened to Wesley Snipes.

A person's home may also be adversely impacted by not paying income tax. One of the ways that the IRS seeks to insure payment includes filing of a tax lien that becomes a lien against the home. The IRS has the power to sell a home despite the Florida homestead protection. The filing of a tax lien is common, however, selling a person's home to satisfy a tax liability occurs in limited cases, however, it is devastating for the few who find themselves in that position.

The possibility of criminal prosecution for willfully failing to timely file tax returns increases significantly for those who have failed to file US tax returns for several years. I've represented many people over the years who found themselves in a bad position with the IRS because they failed to file one year and then were afraid to file their tax returns in subsequent years. There is hope for those people who find themselves in this situation; you must proceed carefully with the help of an experienced criminal defense lawyer.



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