

Dealing with Non-Filers:

A Checklist for Saving Taxpayers

Eric L. Green, Esq.



1

Brought to you by Bench Accounting

Bench



Dealing with Non-Filers

2

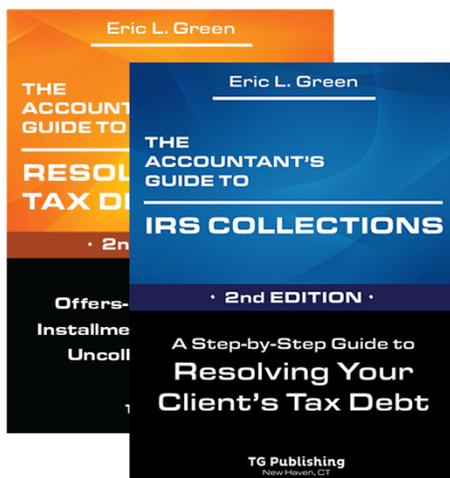
2

Eric Green, Esq.

- ▶ Managing partner in Green & Sklarz LLC, a boutique tax firm with offices in Connecticut and New York.
- ▶ Focus is civil and criminal taxpayer representation before the Department of Justice Tax Division, Internal Revenue Service and state Departments of Revenue Services.
- ▶ Has served as a columnist for CCH's Journal of Practice & Procedure.
- ▶ Attorney Green is the past Chair of the Executive Committee of the Connecticut Bar Association's Tax Section.
- ▶ Eric is a Fellow of the American College of Tax Counsel ("ACTC").



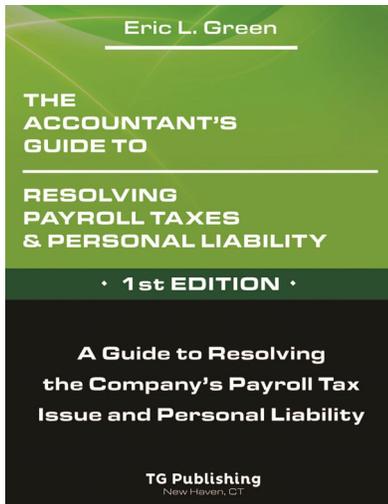
Eric Green, Esq.



- ▶ Eric is the host of the weekly Tax Rep Network Podcast, available in iTunes, Apple Podcasts and Google Podcasts
- ▶ Eric is the founder of Tax Rep Network, an online community designed to help tax professionals build their IRS Representation Practice
- ▶ He is the author of the Accountant's Guide to IRS Collection and the Accountant's Guide to Resolving Tax Issues



Release of the New Accountant's Guide



Payroll taxes are the number one reason why small businesses get into tax trouble. In addition, the IRS will begin pursuing the owner and other responsible employees personally for the trust fund portion of the taxes! Payroll Tax cases also are an opportunity for practitioners to make money while saving businesses, their owners and hundreds or even thousands of employee jobs.

Pick up the newest guide and learn how to add this service to your practice and make money helping businesses turn things around and solve their most vexing payroll issues!

www.TGPublish.com

TRN
TAX REP NETWORK

Dealing with Non-Filers

5

5

You need to get attention...

- ▶ The need is there
- ▶ The help is not
- ▶ This is where the life saving Tax Rep professional comes in



TRN
TAX REP NETWORK

Dealing with Non-Filers

6

6

The Stats...

Year	Accounts in Collection
2005	6,478,000
2006	7,074,000
2007	8,240,000
2008	9,232,000
2009	9,667,000
2010	10,391,000
2011	10,809,000
2012	11,464,000
2013	11,721,000
2014	12,410,000
2015	13,371,000
2016	14,005,000
2017	14,080,000
2018	13,186,000
2019	15,002,000

7

Non-Filers



More than 7 million



IRS announcing a new initiative to go after them

8

Government will know about more!



Tools to help people get their Economic Impact Payment

COVID Tax Tip 2020-48, April 30, 2020

The IRS has two tools to help millions of taxpayers with their **Economic Impact Payment**. The payments are \$1,200 per eligible person and up to \$500 for each qualifying child.

The first tool, **Non-Filers: Enter Payment Info Here** is available – in English and Spanish - for certain taxpayers who don't normally need to file a return. This free tool allows them to enter basic information so the IRS can issue their payment. The second tool, **Get My Payment** allows people to check the status of their payment and provide bank account information if a payment has not been scheduled for delivery.

Who needs to use Non-Filers: Enter Payment Info Here?



So the phone rings

- Follow the steps
- They can get through this
- We can make a lot of money!



The Checklist

Consultation

Retained:

Pull Transcripts

Does the IRS know?

Accounting/Bookkeeping Done

Prepare Tax returns

File Returns

Resolve the Tax Debt

11

Consultation

- Charge the fee
- Listen, believe but verify
- Lay out the steps (see prior slide)



12

So the phone rings

- Retainer agreement specifies services
 - a. Bookkeeping
 - b. Return Preparation
 - c. Resolution of outstanding debt
- Get 2848
- Get money up-front



13

Pull Account Transcripts



14

Does the IRS Know?



- If they do, contact and buy time
- If not, consider voluntary disclosure

Normal Filing vs. Voluntary Disclosure

Good records and little risk - just file

Issues like potential fraud? Voluntary Disclosure

1. Cash Payments
2. No records
3. Undocumented workers
4. Prior false returns

IRS Memo: November 20, 2018

Voluntary Disclosure

Fax in pre-clearance

While you wait get the returns done

Get pre-cleared, complete the Voluntary Disclosure Letter

Submit everything through Voluntary Disclosure

Should we submit the state returns first/State Voluntary Disclosure?



17

Pre-Clearance Request

Fax: (267) 466-1115

May 18, 2018

Internal Revenue Service
Criminal Investigation
Attn: Domestic Voluntary Disclosure Coordinator
1-D04-100
2970 Market Street
Philadelphia, PA 19104

Re: Domestic Voluntary Disclosure

Dear Sir or Madam:

I represent the following taxpayer who would like to make a domestic voluntary disclosure. The taxpayer's information is:

- Taxpayer's Name _____
- Social Security Number: XXX-XX-XXXX _____
- Address: _____
- Date of Birth: _____



18

Pre-Clearance Approval

In Re: TAXPAYER NAMES

Dear Eric L. Green:

Thank you for your recent correspondence received 12/14/2017. According to the correspondence, your client(s) is/are interested in participating in the Domestic Voluntary Disclosure Program. Your client(s) has/have been pre-cleared to make a Voluntary Disclosure. Please have your client(s) complete and sign the enclosed Domestic Voluntary Disclosure Letter. Return the letter within 45 days via certified mail to the above address.

Upon receipt of your client's/clients' completed Domestic Voluntary Disclosure Letter, we will process your client's/clients' request and notify you as to whether or not your client(s) has/have been accepted into the program.

If you have any further questions, please contact the Voluntary Disclosure Coordinator at (267) 466-1607.

Sincerely,



Voluntary Disclosure Form

Domestic Voluntary Disclosure

Internal Revenue Service
Criminal Investigation
ATTN: Voluntary Disclosure Coordinator
Philadelphia Lead Development Center
2970 Market Street, BLN 1-D04-100
Philadelphia, PA 19104

Dear Voluntary Disclosure Coordinator:

To assist in a timely determination of my (our) acceptance into the Domestic Voluntary Disclosure Program, I (we) submit the following items:

1. This voluntary disclosure relates to the tax liability of the following entity and/or person(s) *(Please add an attachment, if necessary)*:



Records Less than Stellar?

- Use what they have (Bank Statements, Credit Card Stmts, receipts)
- If they don't have, recreate what you can
- Remember the Cohan Rule
 - Case: Cohan v. Commissioner of Internal Revenue, 39 F.2d 540 (1930)
- 433-A analysis?

Requirement to Maintain Records

- Taxpayers are required to maintain books and records
- When a taxpayer is audited by the IRS, the burden of proof falls on the taxpayer to support the information on his or her return.
- The United States Tax Court has ruled that the taxpayer must keep “contemporaneous” records, per Reg. § 1.6001-1.

Income Reconstruction

- Generally necessary when records either no-longer exist or cannot be easily located
- Books and records are not maintained
- Books and records were destroyed by flood, fire, etc.
- Books and records are incomplete
- Generally relies on one or more of the formal indirect methods

The Cohan Rule

- In 1918, George M. Cohan was a theatrical manager and producer doing business in partnership with a gentleman by the name of Harris.
- Cohan had originally been an actor, like his parents.
- The parents with their two children, Cohan and his sister, divided their earnings - one-quarter to each of the children and one-half to the parents.
- Cohan was in charge of the collection and distribution, collecting for all and distributing to the others.

The Cohan Rule

- When audited by the IRS, The IRS fixed Cohan's income as the whole of what he received from the firm of Cohan & Harris, while it lasted, and later as the whole of his own profits.
- In the production of his plays, Cohan was obliged to entertain actors, employees, and dramatic critics.
- He also had to travel a lot, often with his attorney. These expenses amounted to substantial sums, but he had no accounting of these expenses.
- At the trial, in 1930, Cohan estimated the amounts spent on putting on the shows.
- The IRS had refused to allow him to claim any part of this based on the grounds that it was impossible to tell how much he had spent, in the absence of any accounting records.

The Cohan Rule

- The 2nd Circuit held that because it was obvious that Mr. Cohan had spent substantial sums on the shows, those expenses could be approximated and allowed (hence THE COHAN RULE!)
- This rule does NOT apply to those expenses that require specific documentation, such as travel, entertainment, business gifts, EITC, R&D Credits, etc.

Methods of reconstruction

- Specific Item Method - IRM 4.10.4.2.7 (08-09-2011), Easier for a jury to understand
- Indirect Method - IRM 4.10.4.2.8 (08-09-2011), Difficult to match reported income with specific items/sources

Formal Indirect Methods

- Used when direct comparisons of income, expenses, assets, liabilities and equity cannot be made; infers taxable income
- The formal indirect methods are audit techniques used to determine the tax liability based on the amount of unreported income.
 - *IRM 4.10.4.6.3, Source and Application of Funds Method*
 - *IRM 4.10.4.6.4, Bank Deposit and Cash Expenditures Method*
 - *IRM 4.10.4.6.5, Markup Method*
 - *IRM 4.10.4.6.6, Unit and Volume Method*
 - *IRM 4.10.4.6.7, Net Worth Method*

433-A CIS Approach

- 433-A is for collection
- Has IRS guidelines (IRS cannot really argue with that)
- Back into the income (expense analysis, really)

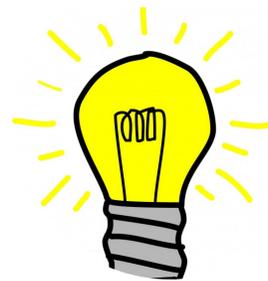
29

Resolve the Tax Debt

- Federal
- State

Remember: These are separate engagements:

- a. Bookkeeping/Accounting
- b. Tax Returns
- c. Federal Tax Resolution
- d. State Tax Resolution



30

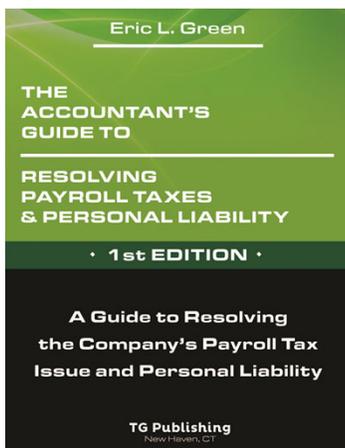
Prepare the Tax Returns

- Remember: Compliance is the last 6 years (Policy Statement 5-133)
- MFS or MFJ?
- File State First?

The image shows a sample of a 2019 U.S. Individual Income Tax Return (Form 1040). The form is titled "1040 U.S. Individual Income Tax Return 2019" and includes the Department of the Treasury and Internal Revenue Service logo. It contains various sections for filing status, dependents, and income reporting. The form is partially filled out with sample data.



The Ultimate Payroll Tax Resolution Workshop

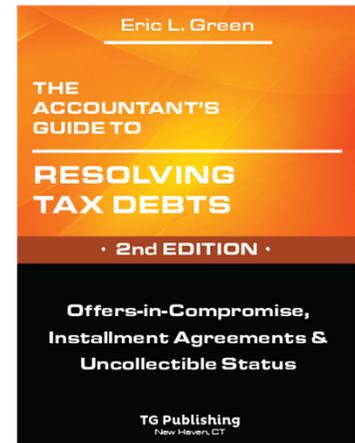


- Tuesday June 2nd, 1pm – 5pm
- 4 ce/cpe hours
- How to resolve your client's worst payroll tax case
- Including case studies with all the forms completed, downloadable letters and checklists to use in your practice
- Limited to 100 attendees so all questions can be answered
- Early bird \$199 until 5/27, after that \$299
- Register by 5/27 and get the digital edition of the Accountants Guide to Resolving Payroll Tax Debts FREE!
- <https://taxrepllc.com/program-20200602-payroll-tax-train-wreck/>



The Ultimate Offer-in-Compromise Workshop

- ▶ Tuesday June 9th, 1pm – 5pm
- ▶ 4 ce/cpe hours
- ▶ Offers from start to finish
- ▶ Including case studies with all the forms completed, downloadable letters and checklists to use in your practice
- ▶ Limited to 100 attendees so all questions can be answered
- ▶ Early bird \$199 until 6/5, after that \$299
- ▶ Register by 6/5 and get the digital edition of the Accountants Guide to Resolving Tax debts FREE!
- ▶ <https://taxrepllc.com/program-20200609-ultimate-oic-workshop>



Dealing with Non-Filers

33

33

Bench Accounting

Tax Resolution Bookkeeping

Oscar Wimshurst - Partnerships



34

Bench by Numbers



- ❑ **2013 - Launched to the public**
- ❑ **350+ staff**
- ❑ **8000+ clients** - America's largest bookkeeping service for small businesses
- ❑ **48,000 months (4000 years)** of retroactive bookkeeping since April 2015!

35

 **BenchRetro** - a historical bookkeeping service designed specifically for tax resolution professionals

36

The BenchRetro advantage

- ❑ **No records? No problem!** - accurate financials produced direct from statements.
- ❑ **Get financials, fast** - speedy, efficient service & unlimited communication with dedicated bookkeepers
- ❑ **Work smarter, not harder** - outsource low margin / cost prohibitive work.
- ❑ **'Unlimited' bookkeeping capacity** - access to a large team of specialists at no extra cost
- ❑ **Easily monitor progress** - third-party access to client financials in-app.
- ❑ **Client Discounts & Partner Rewards** - revenue sharing program for Tax Rep Network members

37

Partner Profile



Short Financial Group

Tax · Accounting · Wealth Management

- ❑ Firm based in Charlotte, SC
- ❑ BenchRetro partner since September 2019



“ Bench continues to stand out in the crowded space of possible options and tools available to accounting and tax firms. **Reason #1:** Their cloud-based platform takes huge amounts of bookkeeping and compilation heavy-lifting off our plate. **Reason #2:** Their people are outstanding. **Reason #3:** Small firms like ours can help more clients in resolving tax cases by leveraging Bench's substantial bandwidth. ”

38

What clients and partners are saying



“They made what is very painful and anxiety-causing for me (and a lot of other business owners I suspect) much easier, and I truly feel like I have a team who is on my side helping me get through it. One giant thank you to BenchRetro.”

Heather (BenchRetro client)

“I am so pleased with the partnership and do not know how I survived my career before. This is like, amazing!”

Anita (Enrolled Agent)

Capterra 4.8/5

Trustpilot 4.7/5

Google 4.8/5



BenchRetro - pricing



- ❑ We will complete 1 month of bookkeeping as a free-trial
- ❑ **Flat monthly rates**, quoted up front
- ❑ Rates start as low as \$139/m - clients priced depending on their level of monthly expenses



- ❑ **Discounted rates** for referred clients and **custom quotes** for larger projects
- ❑ **Payment plans** that suit client cash flows



BenchRetro- Partner (and client) rewards

Partner program for Tax Rep Network members:

- ❑ **Client Discount** - Client receives 15% off all billings
- OR**
- ❑ **Shared Value** - discounted historical bookkeeping for clients **PLUS**
 - a. **10%** revenue share for lifetime of each referred client
 - (OR)**
 - a. **\$350** per referred client

41

How to get started

- ❑ **Get in touch**
 - ❑ oscar.wimshurst@bench.co
 - ❑ **DD: 1-(650)-209-4668**
- ❑ Test us out!

Thank you

42

Questions?

