

## **SETTLEMENT OF TAX CLAIMS – AN EFFECTIVE USE OF CHAPTER 13<sup>1</sup>**

*This is an advertisement*

If attempts to resolve outstanding income tax liabilities with federal, state or local tax authorities have been unsuccessful, an individual, including those operating sole proprietorships, may want to consider a Chapter 13 as a way to satisfy the liabilities.

Chapter 13, which allows an individual to retain property and propose a repayment plan to his/her creditors over a period as long as sixty (60) months, may allow a taxpayer to “force” a repayment proposal on taxing authorities without additional post-bankruptcy interest and penalties. Chapter 13 requires that “priority claims” be paid in full through a Court-approved repayment plan, but does not require the payment of interest or penalties after the bankruptcy filing. Of course, the other requirements of Chapter 13 must be met. Only individuals with “regular income” and secured debts less than \$336,900.00 and unsecured debts less than \$1,010,650.00 are eligible to file for Chapter 13 relief.<sup>2</sup>

In addition, the taxpayer/debtor must have sufficient disposable income to pay his/her administrative expenses (trustee fees, attorneys’ fees) and priority claims (e.g., certain taxes, wages, domestic support obligations) in full within sixty (60) months. Priority tax claims generally include taxes required to be withheld from an employee’s wages, sales tax, and income taxes due within three years prior to the bankruptcy.<sup>3</sup> If a tax lien has been filed, a portion of the tax claim (including previously assessed interest and penalties) may be allowed a secured claim which will accrue interest. The secured claim will be the value of the taxpayer’s otherwise

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<sup>1</sup> This article is a service for friends and clients of DelCotto Law Group PLLC. The opinions expressed in this article are intended for general guidance only and not as recommendations for specific situations. As always, readers should consult a qualified attorney for specific legal guidance.

<sup>2</sup> These amounts are adjusted periodically. There are many other Chapter 13 requirements beyond the scope of this article. For taxpayers not eligible for Chapter 13, similar relief is available in a Chapter 11 bankruptcy.

<sup>3</sup> Determining when taxes become “due” can be complicated. Each situation should be specifically evaluated.

unencumbered, non-exempt property. The secured portion of the tax claim will accrue interest at the federal rate of interest in effect on the plan approval date and must be paid in full during the plan period. Taxes which are neither secured nor administrative claims, including older income taxes, can be treated as “unsecured” claims, and may only need to be paid a small percentage of the total amount. Finally, for a Chapter 13 plan to be approved, it must be proposed in good faith, comply with law and pay creditors at least as much as they would receive if the taxpayer liquidated his/her assets under the Chapter 7 liquidation provisions of the Bankruptcy Code.

In sum, if an acceptable non-bankruptcy repayment plan cannot be reached with a taxing authority, explore your bankruptcy alternatives. For more information on this topic, contact Dean A. Langdon or Jamie L. Harris at DeICotto Law Group PLLC, 200 North Upper Street, Lexington, Kentucky 40507; email: [dlangdon@dlgfir.com](mailto:dlangdon@dlgfir.com) or [jharris@dlgfir.com](mailto:jharris@dlgfir.com); telephone: (859) 231-5800.