

War Tax Resisters
and the
Internal Revenue Service

Third Edition — October 2008

National War Tax Resistance Coordinating Committee

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War Tax Resisters and the Internal Revenue Service
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Important Notice

This publication is not intended for use as an introduction to war tax resistance. Readers unfamiliar with war tax resistance are advised to contact the National War Tax Resistance Coordinating Committee (NWTRCC) for introductory literature.

NWTRCC has made every reasonable effort to provide accurate information in this publication. However, due to the enormity, complexity, and fluidity of the Internal Revenue Code, readers must be aware that certain legal information may be omitted, in error, or out of date. Readers are advised to seek additional information from NWTRCC, from a member of NWTRCC's national network, or from the various resources listed herein.

This publication is not intended as a substitute for personalized consultation. If legal advice or other expert assistance is required, the services of an attorney or other competent professional should be sought. NWTRCC may be able to provide referrals.

NWTRCC shall not be liable to any person or entity with respect to any loss or damage caused or alleged to be caused directly or indirectly by this publication.

Abbreviations Used in this Publication

ACS	Automated Collection System (A branch of the IRS)
CFR	Code of Federal Regulations (The regulatory law of the United States)
CI	Criminal Investigation (A branch of the IRS)
DOJ	U.S. Department of Justice
FBI	Federal Bureau of Investigation (An agency of the DOJ)
IRS	Internal Revenue Service (An agency of the U.S. Department of Treasury)
NWTRCC	National War Tax Resistance Coordinating Committee
USC	United States Code (The statutory law of the United States)
WTR	War Tax Resister or War Tax Resistance

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A Review of War Tax Resistance Methods

War tax resistance is the conscientious refusal to pay a tax that finances war or militarism. There are a wide variety of methods useful for resisting the collection of war taxes, many of which are listed below. These methods vary significantly in regard to their popularity, their likely results, and their risks. Most of these methods are illegal. For more detailed information regarding any particular method, see the resources available from NWTRCC. For legal advice, contact a sympathetic lawyer. Most WTRs use one or more of the following methods:

Legally Reduce or Eliminate Your Taxable Income

- Earn less money.
- Earn below the threshold for owing any tax.
- Take full advantage of all legal deductions, credits, exemptions, and loopholes.

Reduce or Eliminate Withholding of Your Income

- Claim “exempt” status on your IRS Form W-4, *Employee’s Withholding Allowance Certificate*.
- Claim enough allowances on your IRS Form W-4 to effectively eliminate withholding.
- Ask your employer to be sympathetic with your war tax resistance and to willingly forgo withholding any of your income.
- Work in an occupation exempt from withholding. For example, withholding is not required on ministers, most domestic workers, newspaper vendors, and certain agricultural workers. (26 USC § 3401)
- Become self-employed and bypass the entire withholding process.

Report Less Taxable Income Than You Are Legally Required to Report

- Refrain from filing a tax return.
- File a tax return with insufficient information.
- File a tax return, claiming “war tax” deductions or credits.
- File a tax return, reporting only income that the IRS will be aware of via other sources (e.g., Forms W-2 and 1099). Omit reporting all other income.
- Request your employers and clients to pay you in cash. Refrain from reporting this income.
- Arrange barter transactions that are off the books.

Reduce or Eliminate Information You Voluntarily Provide to the IRS

- Refrain from filing tax returns.
- Refrain from filing information returns.
- Refrain from submitting payments.
- Refrain from contacting the IRS directly via phone or mail.
- Refrain from responding to IRS phone or mail queries.
- Refrain from handing over your financial records.
- If the IRS manages eventually to contact you in person, exercise your constitutional rights to remain silent, to consult a lawyer, and to refuse entry to your private premises. If you are willing to risk imprisonment for contempt of court, you can refrain from cooperating with the IRS even in the face of a court order.

Reduce or Eliminate Information that Others Provide About You to the IRS

- Arrange with employers not to submit IRS Form W-2.
- Arrange with clients not to submit IRS Form 1099.
- Do not possess bank accounts or investment portfolios that report interest income on IRS Form 1099.
- Do business off the record, in cash or via barter.
- Do not hold title to major assets such as land, buildings, vehicles, securities, etc.
- Reduce or eliminate use of your social security number.
- Reduce or eliminate participation in any state or federal programs.
- Reduce or eliminate registration with any state or federal agencies.

Reduce or Eliminate the Total Amount of Money You Pay to the IRS

- Refuse to pay anything to the IRS.
- Refuse to pay a significant portion of the amount you allegedly owe.
- Refuse to pay a token portion of the amount you allegedly owe.
- Refuse to pay penalties and interest.
- Submit an "Offer in Compromise" to the IRS. (IRS Form 656)

Resist Payment of Federal Taxes Other than Income Tax

- Resist payment of telephone excise taxes.
- Resist payment of inheritance taxes.
- Resist payment of gift taxes.
- Resist payment of alcohol and tobacco taxes.
- Resist payment of transportation fuel taxes.

Fully Exercise All Opportunities for Appeal

- Appeal, verbally and in writing, any IRS finding, decision, bill, or action. (Note: Appeals based solely on moral, religious, political, constitutional, conscientious, or similar grounds are typically rejected by the IRS and the U.S. judiciary.)
- Appeal within the IRS administrative hierarchy.
- Appeal to the U.S. Tax Court.
- Appeal to the U.S. District, Appellate, and Supreme Courts.
- Appeal to your congressional representatives.

Claim a "War Tax" Refund

- File IRS Form 1040X, *Amended U.S. Individual Income Tax Return*.
- File IRS Form 843, *Claim for Refund and Request for Abatement*.

Resist as an Employer

- Refuse to pay corporate taxes.
- Hire WTRs and work with them to find mutually agreeable ways to reduce or eliminate their tax liabilities. (For example: overlook a WTRs W-4 resistance; agree to hire a WTR as an independent contractor; pay a WTR in cash or in-kind and off the books.)
- Refuse to withhold or pay over taxes on employee wages.
- Refuse to report payments made to employees or contractors.
- Refuse to cooperate with IRS levies on wages or amounts due.

Delay IRS Collection Efforts

- Request extensions of all deadlines and appointments.
- Appeal every finding, decision, and action.
- Respond slowly, or not at all, to all IRS demands.

Nonviolently Obstruct IRS Collection Efforts

- Physically obstruct the seizure of property subject to collection.
- Physically retrieve property seized by the IRS.
- Physically obstruct access to or use of IRS premises (e.g., a “sit-in”).
- Seize and remove IRS property.
- Erase or dispose of IRS records.
- Disable IRS computer hardware and/or software.

Make Yourself as “Uncollectible” as Possible

- Protect your income from detection and withholding.
- Reduce your assets.
- Conceal your assets.
- Transfer ownership of your assets to another person, trust, or corporation.

Easy and Legal?

Is there an easy and legal way to resist the payment of war taxes? The short answer is “No.” If war tax resistance were easy and legal, many more people would be war tax resisters. Generally, legal WTR is not easy, and easy WTR is not legal.

If you want to abide by the intent and letter of the law, you have two options to reduce the amount of taxes you are expected to pay to support militarism and war: (1) earn less money, and/or (2) take full advantage of all legal deductions, credits, exemptions, and loopholes. Under these circumstances, WTRs who want to completely eliminate their contribution of war taxes generally need to live at a low income or carefully monitor their deductions, credits, etc., to avoid owing any income taxes.

On the other hand, if you are prepared to engage in civil disobedience, then you have many options to resist the payment of war taxes. (See the accompanying list.) We must be clear that most options for war tax resistance violate the law.

WTRs should beware of schemes that promise easy ways to avoid paying taxes. These schemes typically make claims like: “A legal way to avoid paying taxes!” “The IRS doesn't want you to know about this!” and “This is so new, your CPA doesn't know about it yet!” If a tax avoidance strategy seems too good to be true, it probably is. If you succumb to these claims, you can expect to pay for advice (e.g., books, seminars, conferences, consultant time) regarding common tax evasion. Typically, these schemes are based on arguments that the courts routinely reject (see sidebar on “Fivolous Claims”) or they are plainly fraudulent. Common fraudulent schemes include:

- Creating a home-based business with the purpose of fraudulently deducting the cost and operation of a personal residence.
- Creating multiple trusts or corporations and regularly transferring assets so as to fraudulently hide personal income and assets.
- Creating fraudulent evidence to support deductions of taxable income.
- Creating a bogus religious organization to hide personal assets or to serve as the recipient of fraudulent charitable contributions.

Before deciding to follow a scheme such as these, be sure to reflect on whether or not fraud is an appropriate tactic for your conscientious resistance. While individual war tax resisters differ in many ways, WTRs generally take full responsibility for their acts of resistance and disfavor methods involving fraud and falsehood.

Legal Resources

For the most accurate information, always be sure to use the latest edition of any resource.

Specifically for War Tax Resisters

National War Tax Resistance Coordinating Committee (NWTRCC): *See contact information on front cover.* NWTRCC is a national coalition of groups and individuals who work together to support, coordinate, and publicize war tax resistance efforts. The NWTRCC Coordinator can answer a variety of brief questions over the phone. If your question is more complex, or if you would like to talk with someone in depth about your situation, the NWTRCC Coordinator will refer you to a WTR contact person in your area. If you would like to be in touch with a WTR group, inquire about a NWTRCC affiliate near you. Contact NWTRCC to order any of the following resources.

War Tax Resistance: A Guide to Withholding Your Support From The Military published by the War Resisters League. This essential reference is the most comprehensive guide to WTR available. It includes philosophical and political discussions, information on the federal budget, a history of WTR, personal stories, information on WTR methods and consequences, a review of international WTR activities, ideas for organizing, and more.

More Than A Paycheck. This bimonthly newsletter provides news from and about the WTR movement. Anyone who practices war tax resistance should read this newsletter in order to keep up-to-date about available resources, the life of the movement, and changes in tax law.

Practical War Tax Resistance Series. This ongoing series of booklets provides in-depth coverage of topics such as: controlling federal tax withholding; the pros and cons of filing or not filing a tax return; how to resist collection; self-employment as a technique for WTR; simple living as a technique for WTR; WTR for organizations; and issues related to social security and aging.

War Tax Resisters and the IRS. This booklet provides a detailed outline of IRS practice and procedure pertinent to war tax resisters. It summarizes IRS methods for detecting, investigating, penalizing, and collecting from WTRs. The outline also summarizes WTR options for responding to the IRS.

Specific Legal Information. Contact the NWTRCC office if you have a need for particular legal information regarding war tax resistance.

National Campaign for a Peace Tax Fund (NCPTF): 2121 Decatur Place, NW, Washington, DC 20008. (888)732-2382. www.peacetaxfund.org. NCPTF advocates for U.S. federal legislation enabling conscientious objectors to war to have their federal income taxes directed to a special fund which could be used for non-military purposes only. This fund would be called the Peace Tax Fund and the bill they seek to pass is called the Religious Freedom Peace Tax Fund Bill. A version of this bill was originally introduced in Congress in 1972.

War Tax Resisters Penalty Fund (WTRPF): PO Box 25, North Manchester, IN 46962. WTRPF is a cooperative fund, founded in 1982, to assist war tax resisters who are burdened with IRS penalties and interest. This fund provides an excellent way for people who are not WTRs to support people who are.

Basic Legal Resources

If you are interested in answering your own legal questions, but you do not know where to begin, start with the following resources:

Law Libraries. Public law libraries are available in most county courthouses, state courthouses, and public university law schools. Private university law schools usually have well stocked law libraries, but they may not be open to the public. However, any private university library that is a depository for U.S. Government Documents is legally required to make those documents accessible to the public. If you request access to government documents, you may be limited to the documents room in the library. More often than not, government documents are not tightly segregated, so your request will result in access to most library resources. Law librarians can help you find specific pieces of information and can help you become better acquainted with law library resources.

Legal Encyclopedias. A legal encyclopedia is a good place to begin clarifying your topic and uncovering leads for a more detailed search. They are easy to use and are organized by topic. The two standard sets are *American Jurisprudence 2nd* and *Corpus Juris Secundum*

Black's Law Dictionary. An invaluable tool for wading through legal jargon.

West's Federal Practice Digest. There are a variety of digests published. This particular one briefly summarizes all reported court decisions made by U.S. District, Circuit, and Supreme Courts. Digests are organized by topic, so you can easily scan the vast majority of court decisions concerning any particular matter.

Treatises and Textbooks. Law libraries have more than just law books and court reporters. A well-stocked law library will also have a variety of related books that look and read just like "normal" books. If you are persistent, you may find an entire chapter or book devoted to the matter you are researching.

Nolo Press. 950 Parker Street, Berkeley, CA 94710. (800)728-3555. www.nolo.com. Nolo Press is the best place to find self-help legal information. They have been in business since 1971, they have an extensive catalog, and their books are carried in many bookstores and libraries. Their book *Legal Research: How to Find and Understand the Law*, is a fine map to the law library maze.

Accountants. Certified public accountants who specialize in individual income tax can answer most of your technical questions regarding IRS rules, procedures, deadlines, and penalties.

Should I Use a Lawyer?

If the IRS issues a summons or threatens to collect, the assistance of an accountant, a tax lawyer, a criminal defense lawyer, or a "movement" lawyer might be helpful. NWTRCC strongly recommends the use of a lawyer if you become aware that you are under criminal investigation. Contact NWTRCC if you need assistance locating a lawyer.

Consider representing yourself if you want to:

- Save professional fees
- Exercise your right to defend yourself
- Avoid the risk of hiring an incompetent representative
- Avoid losing some control over your defense

Consider hiring a lawyer or accountant if you want to:

- Save time and stress
- Reduce the chance of making serious errors
- Avoid facing the IRS alone
- Have the IRS treat you more professionally

Tax Law

Visit your state, county, or university law library, or search online to find these and similar resources.

Primary Sources of Tax Law. These sources take up many thousands of pages. This enormous body of text is fairly complicated, frequently vague, occasionally conflicting, and always being altered. Even IRS employees and professional accountants have difficulty interpreting and applying these laws.

Internal Revenue Code. Title 26 of the United States Code. The United States Code is published by the federal government as *United States Code* (USC). Commercial publishers issue annotated versions of the code known as *United States Code Service* (USCS) and *United States Code Annotated* (USCA). The law is identical in all three versions.

Internal Revenue Regulations. Title 26 of the Code of Federal Regulations (CFR).

Internal Revenue Manual. This resource, available on the IRS web site, is filled with detailed policies and guidelines for IRS personnel. It also serves as a useful summary of laws related to audit, collection, penalty, and criminal procedures. Some sections of this manual are classified and are not available to the public.

Revenue Rulings, Revenue Procedures, Letter Rulings. These are three types of published decisions which the IRS issues regarding specific situations.

Case Law. Decisions made by the U.S. Tax Court and tax-related decisions made by the U.S. District, Claims, Appellate, and Supreme courts all provide guidance on how similar cases are likely to be decided in the future.

IRS Publications. These resources offer the IRS interpretation of tax laws and are intended for use by the general public. Beware that the simplified interpretations offered in these publications are not always thorough or precise.

Reference Services. A variety of reference services are available from commercial publishers. These services provide highly detailed, cross-referenced, indexed, and up-to-date access to tax law. Most reference services are updated weekly or monthly, and some annually. Some services focus on specific areas, such as audits or collections. Several common services are listed below.

Federal Tax Handbook. (RIA) An annual one-volume summary of tax law.

United States Tax Reporter. (RIA) An exhaustive multi-volume analysis of the Internal Revenue Code, Internal Revenue Regulations, case law, rulings, and proposed regulations, organized by Internal Revenue Code section number.

Analysis of Federal Taxes. (RIA) An exhaustive multi-volume encyclopedic treatment of the tax law, organized by topic.

Federal Taxes Weekly Alert. (RIA) A weekly newsletter covering legislative developments, court decisions, and changes in the tax law.

Federal Taxation of Income, Estates, and Gifts. (Warren, Gorham & Lamont/RIA) A 5-volume encyclopedic review of tax law and IRS practice and procedure.

Mertens Law of Federal Income Taxation. (Clark Boardman Callaghan) A multi-volume comprehensive reference service.

IRS Practice and Procedure. Michael I. Saltzman (Warren, Gorham & Lamont/RIA) Regarded by many to be the best reference on IRS practice and procedure.

Criminal Tax Law. The following resources are particularly useful if you become involved in any criminal tax proceedings.

Criminal Tax Manual. U.S. Department of Justice, Tax Division, Criminal Enforcement Section. Seventh Edition, 1994, with 2001 updates online. This manual is the primary tax law guide for government prosecutors. It reviews arguments and includes case citations for precedent-setting court decisions. It also includes a lengthy section on "tax protestors." This manual can be found on the Department of Justice website, usdoj.gov, and as Title 6 in the DOJ Manual.

Tax Fraud and Evasion. I.M. Comisky, et al. (Warren, Gorham & Lamont, 1994) Detailed legal analysis of tax fraud and evasion and how the IRS and Department of Justice treat these matters.

The IRS

Stand Up to the IRS. Frederick Daily. (Nolo Press) When the IRS comes knocking, this is probably one of the most helpful book a WTR can have. The author's experience as a tax attorney, and Nolo's consumer-friendly style, create a useful book with extensive practical suggestions on all aspects of interacting with the IRS. Provides an excellent overview of IRS practice and procedure for the non-lawyer.

Popular Tax Guides. Most libraries and bookstores carry one or more books designed to help taxpayers legally reduce the amount of income tax owed. These books are revised annually.

- *J.K. Lasser's Your Income Tax* (John Wiley & Sons)
- *Ernst & Young Tax Guide* (Perseus Publishing)
- *Taxes for Dummies* (John Wiley & Sons)
- More detailed professional tax guides for accountants and lawyers are also available in some law libraries and bookstores.

Free IRS Publications. The following free publications may be of particular interest to war tax resisters. Most of these publications are available on the IRS web site. Many are also available in local libraries and IRS offices. You can also order copies by phone (800-829-3676) and by mail. Mail your order to the nearest IRS Distribution Center:

- IRS Western Area Distribution Center, Rancho Cordova, CA 95743-0001
- IRS Central Area Distribution Center, PO Box 8903, Bloomington, IL 61702-8903
- IRS Eastern Area Distribution Center, PO Box 85074, Richmond, VA 23261-5074

IRS Publications:

1	Your Rights as a Taxpayer
5	Your Appeal Rights and How to Prepare a Protest
15	Circular E, Employer's Tax Guide
15A	Employer's Supplemental Tax Guide
15B	Employer's Tax Guide to Fringe Benefits
17	Your Federal Income Tax
334	Tax Guide for Small Business
505	Tax Withholding and Estimated Tax
556	Examination of Returns, Appeal Rights, and Claims for Refund
594	The IRS Collection Process
910	Guide to Free Tax Services
1494	Table for Figuring Amount Exempt from Levy on Wages, Salary . . .
1544	Reporting Cash Payments of Over \$10,000
1546	The Taxpayer Advocate Service of the IRS
1660	Collection Appeal Rights
3385	IRS Accountability Report
3744	IRS Strategic Plan, 2005-2009

IRS Forms:

SS-8	Determination of Worker Status (Employee vs. Independent Contractor)
433A	Collection Information Statement for Individuals
656	Offer in Compromise
843	Claim for Refund and Request for Abatement
911	Application for Taxpayer Assistance Order
1040X	Amended U.S. Individual Income Tax Return
9423	Collection Appeal Request
9465	Installment Agreement Request
12153	Request for a Collection Due Process Hearing

IRS Publications for Purchase

Federal Tax Products. Publication 1796. CD-ROM contains all current publications and forms. Order via the IRS web site, or from the National Technical Information Service (877-233-6767).

IRS Data Book. Publication 55B. Book contains all current statistical tables from the IRS. This publication can be downloaded for free on the IRS web site, or it can be purchased in print from the U.S. Government Printing Office (866-512-1800).

IRS Phone Numbers

- General Tax Assistance 800-829-1040
Even if you get though on this line, the IRS admits that operator responses are accurate no more than 75% of the time.
- Tele-Tax 800-829-4477
Recorded information on over 150 topics. See the IRS web site, or listen to topic #123 for a directory.
- Tax Fax 703-368-9694
Call this number to request a faxed index of approximately 100 IRS forms available via fax.
- IRS Forms and Publications 800-829-3676
Call this number to place a mail order.
- TTY / TTD Service 800-829-4059
- Taxpayer Advocate Service 877-777-4778

IRS and Tax Resources on the Internet

www.irs.gov (Internal Revenue Service) This site is packed with information, but it is not always easy to find what you are looking for. The site map and the FAQ's provide useful gateways, but they are not comprehensive. Most of the technical information of interest to WTRs will be found in the areas devoted to "tax professionals" and the "Freedom of Information Act." This site includes most IRS forms and publications, most statistical publications, the Internal Revenue Manual, the Internal Revenue Bulletin, and official news releases and fact sheets.

www.unclefed.com (National Tax Services) This commercial site provides easy access to a full range of IRS-related documents, reports, and technical information.

www.trac.syr.edu/tracirs (Transactional Records Access Clearinghouse (TRAC)) This organization, associated with Syracuse University, gathers, interprets, and distributes data about several federal agencies, including the IRS. It provides user-friendly access to a wide variety of IRS statistics and trends.

www.ustreas.gov/irs/ci (IRS Criminal Investigation) Extensive information about non-filing, tax fraud, schemes, and cons.

www.ustreas.gov (U.S. Department of the Treasury) Tax policy documents. Office of Tax Analysis working papers.

www.usdoj.gov/tax (U.S. Department of Justice - Tax Division) Contains complete texts of the Criminal Tax Manual, Judgement Collection Manual, and Settlement Reference Manual.

www.gao.gov (U.S. General Accounting Office) This investigative arm of the U.S. Congress is an excellent source of detailed information about IRS operations. Reports and congressional testimony are available for free.

http://bookstore.gpo.gov (U.S. Government Printing Office) IRS print publications are available for purchase at this site. (Note: many of these publications can be downloaded for free on the IRS web site.)

http://uscode.house.gov (U.S. Congress) This official version of the United States Code is searchable. Title 26 is the Internal Revenue Code.

www.taxsites.com A gateway with extensive links to tax and accounting web sites.

Outline of IRS Practice and Procedure

Proper Use of This Outline

- Before using this outline, be sure to read the “Important Notice” located at the beginning of this booklet.
- This outline is keyed to the accompanying flow chart by the bracketed numbers.
- This outline focuses on individual resistance to federal income tax. Other types of tax resistance follow similar procedures, but such procedures are not covered here.
- This outline focuses primarily on IRS practice and procedure. For anecdotes and trends regarding WTR experiences with the IRS, contact NWTRCC.
- The outline and flowchart provide a simplified overview of a WTRs potential interactions with the IRS. This information does not include all the possible options for either you or the IRS. The flowchart depicts a likely course of events, but your situation may vary. Contact a WTR counselor, a lawyer, or an accountant for more details.

[1] WTR Does Not File a Tax Return

One primary way you can resist paying war taxes is by refusing to file a tax return and, subsequently, by refusing to send any money to the IRS. The IRS has estimated that about 10 million people who are obliged to file tax returns fail to do so each year. Only a fraction of these non-filers are war tax resisters.

[2] WTR Files a Tax Return

One primary way you can resist paying war taxes is to file a tax return, and either:

- [A] Adjust the information you supply on the return so the alleged tax due is reduced or eliminated, or
- [B] Supply all information on the return exactly according to IRS requirements, but then refuse to pay some or all of the amount allegedly due.

[3] IRS Detects WTR Non-Filer

The IRS has a priority to increase its efforts to identify and collect from non-filers. However, computer detection and follow-up has been behind schedule. If the IRS does not immediately contact a new non-filer, one cannot assume that the system has been foiled. The IRS identifies and locates non-filers in several ways:

- [A] **Intentional Contact:** The WTR personally raises the matter of war tax resistance with the IRS or with a government official, via letter, telephone call, or visit.
- [B] **Information Returns Program:** This computer program compares all payments reported by employers, banks, trusts, etc. (on Forms W-2, 1099, K-1, etc.) with all tax returns filed. If payor information is submitted, and no corresponding return exists for the payee, the computer identifies a potential non-filer.
- [C] **Stopfiler Program:** This computer program identifies people who have previously filed tax returns, but then stopped filing.
- [D] **Government Information Sharing:** State governments and other federal agencies routinely share information with the IRS (e.g., U.S. Passport Agency, state tax departments, and state motor vehicle departments; some sharing through federal financial aid programs).
- [E] **Third-Party Audit:** The IRS may learn of a WTR during the audit of an employer, client, or other person who has paid money to or done business with the WTR.

- [F] Employer Action of W-4 Claims:** A WTR may resist withholding of taxes either by claiming a high number of allowances or by claiming exempt status on IRS Form W-4, *Employee's Withholding Allowance Certificate*. Generally an employer should accept the W-4 as submitted. However, an employer may treat a W-4 as invalid if an employee indicates in any way that it is false. Criteria for exempt status appears on the form; if your salary is too high it may stand out as incorrect. If the IRS suspects an invalid W-4, they can instruct employers to withhold taxes as if the employee was single with no allowances. (IRS Pub. 15, *Circular E, Employer's Tax Guide*.)
- [G] IRS Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business:** Anyone who, in the course of business, receives over \$10,000 in cash in one or more related payments within a one-year period is generally required to report the cash transaction(s) on Form 8300. (26 USC § 6050-I. IRS Pub. 1544, *Reporting Cash Payments of Over \$10,000*.)
- [H] Informants:** Current or former business associates, employers, employees, co-workers, neighbors, acquaintances, relatives, former spouses, etc. may choose to report a WTR to the IRS. (Informants may be eligible for rewards, depending on the actual amount of taxes collected as a result of the informant's information. 26 USC § 7623. IRS Pub. 733, *Rewards for Information Provided by Individuals to the IRS*.)
- [I] IRS Criminal Investigation:** Although this division of the IRS focuses largely on tax matters related to organized crime and drug-related crimes, it also devotes significant resources to investigating general tax crimes. CI researches suspicious activities, organizations, newspaper reports, barter exchanges, etc.
- [J] IRS Form Orders:** While there is no evidence that IRS computers monitor form orders or use ordering information to locate non-filers, as a precaution, non-filers may order IRS forms and publications under an alias or through a friend.

[4] IRS Detects WTR Filer

A WTR who files a tax return is susceptible to most of the methods of detection listed above in section [3]. A WTR who files is also likely to be detected by the very act of filing. When a tax return is first received at an IRS Service Center, a clerk briefly reviews the submission to make sure it can be processed. Then, the clerk enters the essential information into a computer. Every return is subject to at least the following tests:

- [A] Frivolous Returns Program:** When tax returns are reviewed at an IRS Service Center, the frivolous returns program—which uses both human and computer screening techniques—identifies returns which assert “frivolous” legal or constitutional arguments. (See sidebar on “Frivolous Claims,” p. 44.) If you refuse to pay a tax, refuse to provide required information, or claim a refund, and you offer a “frivolous” argument to support any of these actions, your tax return may be pulled out of the regular processing stream and forwarded to the frivolous returns program unit at the IRS Compliance Services Center in Ogden, UT. There, your case will be assigned a code according to the type of argument you raised, and you will be sent a customized notice requesting that you file a “proper” tax return. Depending on the nature of the information you provide on your return, the IRS may either (a) reject your return and treat you as a non-filer, or (b) accept your return and proceed with audit, deficiency, or collection procedures.
- [B] Math & Clerical Errors:** If you make a math error (such as incorrect addition), a computational error (such as using an incorrect tax table), or a clerical error (such as sending an incorrect payment), then the computer will automatically: (1) correct any math/computational errors; (2) assess any tax, penalties, and interest due; and (3) begin collection procedures. The first notice you will likely receive will be a request or demand for payment from an IRS Service Center. You will neither receive a 90-Day “Notice of Deficiency” nor have an opportunity to appeal, unless you make a special request.

[C] Information Returns Program: (Also known as the Automated Underreporter Program and the Document Matching Program.) Third parties report to the IRS approximately 80% of all personal income received by individuals. This computer program matches all W-2 and 1099 forms (submitted by employers, banks, and other payors) with all tax returns. If you file a return that does not report all your income, this program may pick up the discrepancy. If the program shows that you were paid money that you did not report, the computer will calculate the tax, penalties, and interest it thinks you owe, and it will mail you a “CP-2000” notice which notifies you of these “proposed” changes. If you receive this notice, you have three alternatives: (1) Agree to the proposed changes and pay up; (2) Argue the proposed changes . . . *Money Magazine* estimates that 25-50% of these notices contain errors!; or (3) Ignore the proposed changes and wait for the 90-Day “Notice of Deficiency.” In 2002 the IRS extended its document matching program to include Schedule K-1 forms from partnerships, S-corporations, and trusts.

[D] Discriminant Function System (DIF): When you file a tax return, your return data is sent to the IRS National Computer Center. This computer center uses the DIF program to examine every return for suspicious signals which warrant further investigation. The DIF program selects approximately 10% of all returns as possibilities for audit. This 10% is further evaluated by human beings. Return evaluators look for evidence of intent to mislead and figures that are uncharacteristically high or low, compared to other figures on the return. In the end, approximately 1% of all returns are selected for audit.

The IRS at a Glance

- The Internal Revenue Service is an agency of the United States Department of the Treasury, and it employs approximately 101,000 people.
 - Commissioner’s Office—Located in Washington, DC. Sets national policy.
 - National Computer Center—Located in Martinsburg, WV. Maintains record of all tax accounts.
 - Service Centers—Located in 10 cities around the country. Service Centers receive and process tax returns and payments. Their computers automatically detect simple problems and generate initial bills and collection notices.
 - Automated Collection System (ACS)—A regional collection system that performs extensive telephone and correspondence dunning of people who allegedly owe the IRS money.
 - District Offices—Located in 64 major cities around the country. District Offices house IRS agents, auditors, and collectors who make direct personal contact with taxpayers. Taxpayer Advocates are also located in each District Office.

- Sources of Revenue

Individual Income Tax	51%
Employment Taxes (Social Security, Unemployment, etc.)	31%
Corporation Income Tax	15%
Estate / Gift / Excise Taxes	<u>3%</u>
	100%

- Net Revenue Collected (FY 2007) \$2.7 Trillion

- Total revenue collected without active intervention by the IRS 98%

- Approximate amount of individual income tax collected by employer withholding 68%

- The IRS reports that it does not have a reliable method to determine how much tax money is not paid each year that, by law, should be paid. The agency’s latest estimate was that noncompliance of all kinds equated to about \$300 billion for FY 2001.

(IRS Pub. 55B, *IRS Data Book 2007*; IRS Pub. 3744, *IRS Strategic Plan, Fiscal Year 2005-2009*.)

Employee or Independent Contractor?

Many war tax resisters prefer to be classified as “independent contractors” rather than as “employees.” Independent contractor status allows one to eliminate income tax withholding, and it offers significant opportunities to refrain from reporting income and paying taxes. A WTR with sympathetic clients may be able to use this method to do business outside the scope of IRS detection.

For these reasons, the IRS is increasingly concerned about employers “misclassifying” employees as independent contractors. Although employers have several incentives to treat employees as independent contractors (tax savings, less paperwork, no need to provide employee benefits), they are susceptible to penalties for this practice.

The IRS regards a worker as an employee if the firm (individual, business, organization, etc.) for whom services are performed has the legal right to control what will be done and how it will be done. The IRS is not concerned with the degree to which this right is actually exercised or the worker’s job title. In brief:

The IRS is more likely to regard a worker as an “employee” if:

- The firm has the right to determine . . .
 - How, when, and where to do the work.
 - What tools or equipment to use.
 - What assistants to hire.
 - Where to purchase supplies and services.
 - What work must be performed by a specified individual.
 - What procedures and methods to use.
- The firm provides extensive instructions and/or training on how work is to be done.
- The firm provides tools, equipment, and supplies for the worker.
- The firm reimburses the worker for business expenses.
- The worker is hired to provide services on a regular and ongoing basis.
- The worker is paid a regular wage or salary.
- The worker must provide services personally and cannot sub-contract responsibilities.
- The firm provides benefits to the worker, such as insurance, pension, paid leave.
- The firm requires that the worker attend certain regular meetings.
- The worker is required to submit regular reports.
- The worker’s services are integrated into the firm’s regular business operations.

The IRS is more likely to regard a worker as an “independent contractor” if:

- The worker has the right to determine . . .
 - How, when, and where to do the work.
 - What tools or equipment to use.
 - What assistants to hire.
 - Where to purchase supplies and services.
 - What work must be performed by a specified individual.
 - What procedures and methods to use.
- The firm provides minimal instructions on how work is to be done.
- The worker provides his/her own tools, equipment, and supplies.
- The worker does not receive reimbursement from the firm for business expenses.
- The worker is hired only for a specific project or limited period of time.
- The worker is paid a flat fee.
- The worker can realize a profit or incur a loss in the work.
- The worker has a significant investment in work-related tools, supplies, and facilities.
- The worker advertises and makes his/her services available to other firms.
- The worker is free to work for other firms as desired.

(Sources: IRS Pub.15A, *Employer’s Supplemental Tax Guide*; IRS Pub. 1779, *Independent Contractor or Employee*; IRS Form SS-8, *Determination of Worker Status*.)

[5] IRS Investigates WTR Non-Filer

In recent years, the IRS has identified and contacted between one and two million non-filers per year. Only a fraction of these non-filers are war tax resisters. Many WTR non-filers report never being contacted by the IRS, but in recent years IRS matching programs have shown improvement. More WTRs report hearing from the agency within a couple years (if income was reported by an employer). Among the thousands of war tax resisters, NWTRCC knows of only six individuals in the last 50 years who have been sentenced for failing to file a tax return. (Sentences ranged from probation to 22 months; the longer sentence was combined with conviction on other charges.)

When the IRS investigates a non-filer, it may use one or more of the following methods, starting at any level.

- Service Center Queries (see section [6])
- Automated Collection System Queries (see section [7])
- District Office Queries (see section [8])
- Criminal Investigation (see section [36])

[6] Service Center Queries Regarding Non-Filers

When a Service Center becomes aware that you are possibly a non-filer, it may initiate a “Taxpayer Delinquency Investigation.” At this level of investigation, the Service Center will send computer generated notices (3 notices over 16 weeks) to your last known address. These notices will request that you either file immediately for the missing year(s) or explain why you have not filed. If you do not respond to these notices, the Service Center will forward your investigation to the Automated Collection System.

[7] Automated Collection System (ACS) Queries Regarding Non-Filers

When the ACS becomes aware that you are possibly a non-filer, it will make a variety of attempts to contact you via mail and telephone. If the ACS manages to contact you, it will ask you to explain why you have not filed and, if necessary, give you a deadline (typically 30 days) by which you must file any missing returns. If the ACS feels that your case needs more in-depth attention, it will forward your investigation to your local District Office.

[8] District Office Queries Regarding Non-Filers

When a District Office becomes aware that you are possibly a non-filer, your case will be assigned to either a Revenue Agent (an “audit” employee) or a Revenue Officer (a “collections” employee). This person will attempt to make contact with you, by mail, by telephone, or in person. Again, the IRS goal is to have you either file immediately or explain why you have not filed.

[9] Non-Filer’s Tax Return Is Ultimately Filed

If the IRS determines that, according to its rules, you should have filed a tax return, the agency will either persuade you to file the return voluntarily, or it will file one for you.

[10] Voluntary Filing of Tax Return

If you ultimately choose to file voluntarily, you re-enter the IRS system at the top of the chart. However, once you file, the likelihood of your return being audited is very high. Furthermore, all applicable interest and civil penalties for late filing will be assessed. Also, depending on how cooperative you were in finally filing the return, additional civil penalties may be imposed, and criminal investigation may be considered. (If you choose to file *before* the IRS begins investigating you for non-filing, see section [40].)

[11] Involuntary Filing of Tax Return

If you ultimately decline all persuasion to file a tax return, the IRS is legally authorized to create and file a tax return for you. (26 USC § 6020) This IRS fabrication is known as a “substitute for return” (SFR). An SFR will not be calculated with your best interest in mind. When the IRS creates an SFR, it will give you only one exemption, no dependents, and a standard deduction. The IRS is authorized to make a guess at your income based on several factors: the average cost of living in your region; the average wage or salary in your trade or profession; your assets and net worth; your record of bank deposits; and any W-2, 1099, or K-1 forms the IRS may have on file. An SFR can be prepared manually or generated automatically by computer. If an SFR is generated automatically, you might not receive any advance personal contact from the ACS or the District Office (see sections [7] and [8]). If you refuse to sign and return the SFR, the IRS has no statute of limitation to restrict it from making additional changes in the future. You can appeal the SFR by voluntarily filing a return and proving that your figures are more accurate than those shown on the SFR.

[12] IRS Audits WTR Filer

[A] Primary Goals of IRS Audits (The IRS prefers to call audits “examinations.”)

- IRS wants to determine if you reported all of your income.
- IRS wants to determine if all of your claimed deductions, exemptions, and credits are valid.
- If you are a business, IRS also wants to determine if you misclassified any employees as independent contractors.

[B] Statute of Limitations (26 USC § 6501)

- Generally, the IRS has only 3 years after you file a return to conduct an audit of that return.
- IRS has 6 years to conduct an audit if it believes you understated your income by more than 25%.
- IRS has unlimited time to conduct an audit if you attempt to evade the tax, if your return is fraudulent, or if you failed to file a return.

[C] Reasons You Might Be Selected for an Audit

- Information Returns Program (See section [4]): This computer program compares all payments reported by employers, banks, etc. (on Forms W-2, 1099, etc.) with all tax returns filed. If the information submitted by payors does not correspond with the information you reported, your return might be audited.
- Discriminant Function System (See section [4]): This computer program scans all tax returns for evidence of intent to mislead and figures that are uncharacteristically high or low, compared to other figures on the return. Suspicious returns are identified for potential audit.

- Compliance Research: The IRS researches “compliance trends” regarding taxpayer filing, payment, and reporting activity. Until 1995 the agency performed this research via the Taxpayer Compliance Measurement Program, which randomly selected approximately 50,000 people every few years and subjected them to exhaustive line-by-line audits. Starting in 2002, the IRS instituted the National Research Program (NRP), which serves the same goals but is allegedly less demanding on the taxpayer. In 2007 the NRP adjusted the program and began examining 13,000 returns a year for three years; results over the three-year period will be combined and analyzed.
- Market Segment Specialization Program (MSSP): The IRS periodically audits people who work in certain professions (e.g., attorneys, clergy, artists, consultants, entertainers, restaurateurs, truckers, child care providers). The complete list of MSSP categories, and the IRS audit guidelines for each category, are available on the IRS web site.
- Certain categories of filers are especially prone to IRS audits:
 - Those who work in a business that deals largely in cash.
 - Those who are self-employed.
 - Those with a history of prior audits.
 - Those with a history of tax deficiencies.
 - Those with a history of criminal activity.
 - Those who claim business or investment losses, especially small businesses.
 - Those who claim a high ratio (usually over 40%) of deductions to income.
 - Those who file amended tax returns (Form 1040-X) to claim a credit or a refund.
 - Those who have been identified by IRS investigators or informants as potential tax evaders.

[D] IRS Audit Powers (26 USC §§ 7601-7613)

- IRS has authority to review all your financial records and business transactions.
- IRS has authority to examine the “economic reality” of your lifestyle if there is a reasonable indication of unreported income.
- IRS has extensive access to state and federal government records in many different departments.
- IRS has authority to secure search warrants, wiretap permits, and mail covers.
- IRS has authority to issue summonses on individuals, employers, banks, business associates, etc. However, the IRS generally cannot contact third parties without giving you advance notice.

[E] Conclusion of Audit

- Upon conclusion of an audit, regardless of your level of cooperation, the auditor will provide you with an Examination Report. This report will identify proposed changes to your return (including additional taxes, penalties, and interest) with a general explanation for each item.
- Upon receipt of the Examination Report, you have four options:
 - 1 - Consent to the proposed changes, forgo appeal options, sign the report, and you will be billed accordingly.
 - 2 - Argue the proposed changes immediately with the auditor or a supervisor.
 - 3 - Argue the proposed changes in an administrative appeal (see section [14]).
 - 4 - Ignore the proposed changes and wait for a 90-Day “Notice of Deficiency” (see section [15]).

Chance of Being Audited

Historically, about 1% of all tax returns are audited. The Earned Income Tax Credit for low income workers seems to attract a higher rate of examination.

In FY 2006, approximately 1,550,992 individual income tax returns were examined. This is approximately 0.9% of all individual income tax returns filed. The following chart shows that certain individual income tax returns are more likely to be audited than others.

<u>Non-Business without Earned Income Credit</u>	<u>FY 2006 Audit Rate</u>
- All individual Returns	0.9%
- Returns without Earned Income Credit	0.4%
- Returns with Schedule E (supplemental inc.)	1.2%
<u>Non-Business and Business with Earned Income Credit</u>	
- under \$25,000	1.9%
- over \$25,000	9.7%
<u>Business Returns (Non-Farm)</u>	
- Under \$25,000 Gross Receipts	1.30%
- \$25,000 - \$100,000	2.00%
- \$100,000 - \$200,000	6.20%
- Over \$200,000	1.90%
- Over \$100,000	1.18%

Of the 1,550,992 individual income tax returns selected for audit in FY 2006, approximately . . .

- 71% were subject to a Correspondence Audit
- 29% were subject to a Field Audit

The rates for office and field audits have been declining in recent years, but they are expected to rise in the future.

(Statistical Source: IRS Pub. 55B, *IRS Data Book 2007*)

[13] Types of Audits

[A] Correspondence Audit: These audits are conducted through the mail. The Service Center or District Office will request that you send in information or documents for their review. If you do not cooperate, they may proceed with one of the other types of audits.

[B] Field Audit: These audits are generally performed by revenue agents, tax compliance officers, tax examiners, and revenue officer examiners, in person or by correspondence. An in-person audit maybe take place at your home, place of business, or at an IRS District Office. (Field audits is now combined with the previous category of “Office Audits.”) Typically, you will be notified of such an audit by letter. This letter may specify certain items of concern, but the agent is free to examine your entire return. In-person audits can take at least one half of a day, and, for larger businesses and more complex situations, they could require significantly more time. Field audits are usually quite lucrative for the IRS, so it is best to consult with a tax advisor before the audit.

[14] Administrative Appeal

[A] 30-Day Letter

- After an auditor proposes changes to your tax return in an Examination Report, and if you do not agree with these changes, within a month or so you will probably be sent a “30-Day Letter.”
- This letter confirms that your case remains “unagreed,” and it offers three options: (1) consent to the auditor’s proposed changes; (2) request an administrative appeal within 30 days; or (3) do nothing and wait for the IRS to send the 90-Day “Notice of Deficiency.”
- This 30-day letter is not mandatory. The IRS may omit this letter and proceed directly to sending the 90-Day “Notice of Deficiency.” Whether you receive the 30-day letter or not, you have the right to pursue an administrative appeal.

[B] Administrative Appeal Process

- An IRS administrative appeal is a relatively simple and informal process that can be done without a lawyer. Information on pursuing an appeal can be found in IRS Pub. 5, *Your Appeal Rights*. For general information regarding appeals, see section [41].
- IRS Appeals Officers have a fairly good record of acting in favor of the taxpayer. According to the IRS, the average appeal results in a 40% decrease in taxes, penalties, and interest imposed by an auditor. 70% of appeal cases are settled amicably.
- If you intend eventually to pursue your case in a U.S. Tax Court, District Court, or Court of Claims, you should attempt an administrative appeal first. If you forgo the administrative appeal level, most federal courts will send you back there before hearing your case.
- In addition to the regular appeals procedure described above, the IRS now offers “Fast Track Mediation” for certain disputes. While this option may provide a quicker and more palatable approach, there are two serious drawbacks. First, many of the disputes a WTR would likely bring to mediation are excluded from this program (e.g., moral or conscientious concerns). Second, this program violates one of the central tenets of mediation—that the mediator be a neutral third party—because your mediator will be an IRS Appeals Officer. If you try mediation and you are not satisfied with the results, you still retain your rights to use the regular appeals procedure. (IRS Pub. 3605, *Fast Track Mediation*)
- NOTE: IRS policy prohibits Appeals Officers (including mediators) from hearing cases based solely on “moral, religious, political, constitutional, conscientious, or similar grounds.” (26 CFR § 601.106(b)) However, in several WTR cases, Appeals Officers have offered compromises which included dropping certain penalties.
- If no settlement is reached during the administrative appeal process, the IRS will send you a 90-Day “Notice of Deficiency.”

Inside the IRS

Poor taxpayer services and abuses of power by IRS employees led Congress to hold hearings in the mid-1990s. The hearings led to the IRS Restructuring and Reform Act of 1998 (RRA) and the "Taxpayers Bill of Rights." Congress created more oversight of the IRS including the Office of the Taxpayer Advocate, the Treasury Inspector General for Tax Administration (TIGTA), and the IRS Oversight Board. The reports from these organizations provide interesting insight into the IRS. The excerpts (quoted or paraphrased) below are from the Oversight Board's *2007 Annual Report*:

"The IRS has made steady progress in delivering quality taxpayer service and improving tax return processing...with declining resources." (The budget is below 2002 levels, and its workforce has shrunk by almost 15,000 employees.)

"Overall customer satisfaction with IRS Toll-Free Service has held steady at 94 percent for four consecutive years."

"The annual taxpayer attitude survey found 86 percent of respondents cite personal integrity as a principal factor influencing whether they report and pay their taxes honestly. ...Similar numbers felt it was important that the IRS ensure that all taxpayers pay what they owe and leave no stone unturned when it comes to those who flout the law."

"One of the greatest and most persistent problems confronting the IRS today is the \$290 billion annual net tax gap—the difference between what is legally owed and what is actually paid."

Focus areas to increase compliance include taxpayers whose income is not subject to third-party reporting or withholding requirements, fraudulent Earned Income Tax Credit claims, those selling questionable tax shelters, incorrectly prepared S-Corp returns, identifying and quickly following up on non-filers.

"The cash economy is vibrant and untouched by the government; it is a growing threat to the voluntary tax system."

"Examination, Collection and Criminal Investigation must also wrestle with the Master Files—a series of very large sequential files developed in the 1960s which can only be updated weekly, and can sometimes take up to two weeks before changes take effect. This creates enormous inefficiencies and taxpayer burden, such as the generation of erroneous notices."

The IRS has a graying workforce; approximately 4,000 employees retire annually and more than 14,000 (nearly 14%) are eligible to exercise that option at any time.

According to TIGTA, IRS employees reported the loss or theft of at least 490 computers containing taxpayer information between January 2, 2003 and June 13, 2006.

These three organizations are required to produce at least annual reports, which are online:

IRS Oversight Board, www.ustreas.gov/irsob, 202-622-2581

Office of the Taxpayer Advocate, www.irs.gov/advocate, 1-877-777-4778.

Treasury Inspector General for Tax Administration (TIGTA), www.ustreas.gov/tigta

Excellent independent analysis of IRS statistics and activity can also be found online from:

Transactional Records Access Clearinghouse (TRAC) at Syracuse University.

<http://trac.syr.edu/tracirs>.

[15] 90-Day “Notice of Deficiency”

[A] The 90-Day Notice of Deficiency (also known as the “Statutory Notice of Deficiency,” the “90-Day Letter,” and the “ticket to tax court”) is a mandatory milepost in the IRS collection process. (26 USC §§ 6211-6213) In most instances, the IRS is required by law to send you this notice before it can formally assess and collect any taxes, interest, and penalties with which you do not agree. Generally, if you disagree with or ignore any of the following items, the IRS must send you a 90-Day Notice of Deficiency:

- An auditor’s Examination Report which proposes changes to your tax return (see section [12-E]).
- A CP-2000 notice which proposes changes to your tax return (see section [4-C]).
- A bill based on automatic math/clerical “corrections” to your tax return, *only* if you request the notice (see section [4-B]).
- A “substitute for return” (see section [11]).

[B] The 90-Day Notice of Deficiency is sent when the IRS finally determines that you owe the government money and that it seems unlikely that you will pay voluntarily. This notice serves two primary purposes:

- It states the total amount the IRS thinks you owe, and it describes the specific reasons and figures it used to calculate this amount.
- It notifies you that you have 90 days within which you can appeal the IRS determination in U.S. Tax Court.

[C] If you ignore the 90-Day Notice of Deficiency:

- All of the taxes, penalties, and interest which the IRS has proposed as being “correct” will be formally assessed. If your account is not paid in full, the collection procedure will automatically begin.
- Once the 90-day deadline passes, you will not be able to pursue any further appeals in federal courts unless you first pay all the assessed taxes, penalties, and interest.

[16] U.S. Tax Court

[A] **Generally** (26 USC §§ 6213-6215, 7441-7479)

- Once the IRS sends you a 90-Day Notice of Deficiency, you have 90 days within which you can file a petition in U.S. Tax Court.
- Appeals to Tax Court have a very good chance of winning at least a partial reduction of IRS proposed changes, however. . .
- Claims based on “frivolous” grounds (i.e., claims based solely on moral, religious, political, constitutional, conscientious, and similar grounds) will be dismissed and are subject to substantial penalties.
- Tax Court is completely independent from the IRS. Only your opposing lawyer will represent the IRS in the courtroom.
- Tax Court does not have jury trials. Decisions are made by one or more Tax Court judges.
- Most states have at least one location for Tax Court trials.
- If you prefer not to use the Tax Court, you can use the traditional federal court system instead (see section [17]).

[B] **Small Tax Cases**

- If the amount in dispute is under \$50,000 for any one tax year, you can opt to be designated as a Small Tax Case.
- Small Cases are fairly informal, quick, cheap, simple, and can usually be done without a lawyer.
- Small Case decisions are final. There are no opportunities for appeal to any higher courts.

[C] Regular Cases

- If the amount in dispute is over \$50,000 for any one tax year, your case will be heard as a Regular Case.
- Regular Cases usually require more time, money, preparation, and technical expertise than Small Cases. Regular Cases typically require the filing of legal briefs and, thus, the need for a lawyer is greater.
- Regular Cases can be appealed to the U.S. Circuit Court of Appeals and to the Supreme Court.

[17] U.S. Federal Courts

[A] Generally (26 USC §§ 7421-7437)

- If you prefer not to appeal to the U.S. Tax Court, you could appeal to your local U.S. District Court or to the U.S. Court of Federal Claims in Washington, DC.
- In order to file a tax claim against the IRS in federal court you must:
 - 1 - Pay the disputed taxes, penalties, and interest to the IRS.
 - 2 - File IRS Form 843, *Claim for Refund and Request for Abatement*, or IRS Form 1040X, *Amended U.S. Individual Income Tax Return*.
 - 3 - Wait for your claim to be officially denied by the IRS.
 - 4 - Once your claim has been denied, or after 6 months have passed without IRS response, you can file a “refund suit” in a District Court or in the Court of Federal Claims.

[B] Potential Advantages of Federal Suits

- Cases in these federal courts can be appealed to a U.S. Court of Appeals and, ultimately, to the U.S. Supreme Court.
- These courts offer the option of a jury trial. If the facts of your case might appeal to a jury, this option could be preferable to trial in Tax Court.
- These courts have different, and possibly more favorable, precedents than the Tax Court. Research regarding your particular case may reveal that you are likely to fare better in the traditional federal court system than in Tax Court.
- In Tax Court, the government attorney will be from the IRS. In traditional federal courts, the government attorney will be from the Department of Justice. This seemingly small distinction is thought by some to work in the individual’s favor.

[C] Potential Disadvantages of Federal Suits

- You must pay the disputed taxes, penalties, and interest to the IRS *before* you file a federal suit.
- Legal expenses in federal suits can accumulate quickly.
- A lawyer is not required, but you will probably need one unless you are fairly knowledgeable about laws and procedures.
- Claims based on “frivolous” grounds will be dismissed and are subject to substantial penalties (see sidebar on “Frivolous Claims,” p. 44).

[18] Assessment of Taxes, Penalties, and Interest

- An “assessment” is when the IRS formally records a liability (some tax, penalty, or interest due) on an individual’s tax account.
- The IRS cannot proceed with any collection measures until it has officially assessed some tax, penalty, or interest as being due (or until a court has determined that a liability exists).

- The IRS is restricted by law as to how long it has to make an assessment for any given tax year. (26 USC § 6501)
 - Generally, the IRS has only 3 years after you file a return to make any assessments for that year.
 - However, the assessment clock is suspended on the date that the IRS mails you the 90-Day “Notice of Deficiency.” If you ignore this notice, the assessment clock does not resume until 60 days after the 90-day period. If you petition the Tax Court, the assessment clock resumes 60 days after the Tax Court’s decision becomes final. (26 USC § 6503(a))
 - IRS has 6 years to make an assessment if it believes you understated your income in that year by more than 25%.
 - IRS has unlimited time to make an assessment if you attempt to evade the tax, if your return is fraudulent, or if you failed to file a return.
- Within 60 days after assessing any amount to your account, the IRS is required to notify you of the details of the assessment. (26 USC § 6303)

Your IRS Transcripts

Any taxpayer can request a free copy of his or her IRS transcripts. You must provide your social security number, you must identify the specific tax years desired, and you may have to supply some form of identification.

- Individual Master File Transcript (MFTRA) — a computer record of what tax returns were filed, what taxes, penalties, and interest were assessed, and what payments were received on your account. The business equivalent is a Business Master File (BMF).
- Information Returns Program (IRP) Transcript— a computer record of what you were paid by employers, clients, banks, etc., as reported on IRS Forms W-2, 1099, etc.
- Return View (RTVUE) Transcript— a computer record summarizing only the essential information from your tax return for any given year. (For a fee, you can order photocopies of your tax returns using IRS Form 4506, *Request for Copy or Transcript of Tax Form*.)
- Penalty and Interest Notice Explanation (PINEX)—a computer record which explains all penalty and interest computations for your tax bill, and which summarizes all activity on your account.
- Auditor’s File—the paper file including your auditor’s notes, work papers, computations, opinions, etc. You can simply ask your auditor to show you this file. In the likely event that the auditor declines your request, you can request a copy of this file under the Freedom of Information Act.

[19] Collection Procedures

[A] Generally

- Once the IRS has officially assessed an amount due on your account, it can begin collection procedures immediately. There is no guaranteed routine for how the IRS might pursue any given debt. The agency has a variety of methods at its disposal. Some methods may be used simultaneously with others. Some methods may be omitted. In general, the IRS will make several attempts at persuading you to pay “voluntarily” before it proceeds with enforced collection measures. Even when the IRS begins enforced collection, you will still, typically, have advanced warning and opportunity to cooperate before the agency actually attempts to seize any of your money or property. The goal of IRS collection procedures is to collect as much of the amount due as possible, as quickly as possible.

- Generally, the IRS has 10 years from the date of assessment to collect a tax, penalty, or interest due. However, there are a variety of circumstances which can extend this period, including filing an Offer in Compromise (IRS Form 656) and requesting a Collection Due Process Hearing (IRS Form 12153). Pending appeals often suspend the collection clock. Most notably, if you do not file a tax return, the collection clock remains on hold indefinitely. (26 USC §§ 6501-6504)
- Accounts showing more than \$25,000 due generally receive the most serious collection efforts. Smaller amounts typically receive less attention.
- If the IRS is intending to collect from you, and if it believes you are planning to hide, transfer, or spend off your assets, it has legal authority to bypass most warnings and procedures and go directly to seizure (see section [33]).
- For general information, see IRS Pub. 594, *The IRS Collection Process*.

[B] Receiving Notices from the IRS

- Most regulations only require that the IRS send notices to your last known address. Moreover, such regulations only require that the IRS prove that a notice has been sent. Whether or not you actually receive the notice is immaterial. Thus, if you moved and forgot to notify the IRS, or if you have been intentionally avoiding the IRS, the collection procedure may be continuing along without you. In other words, if the IRS does not have your current address on file, the agency may be sending notices regarding audits, investigations, amounts due, collection proceedings, etc., and assuming that you are ignoring all their warnings and deadlines. If you have not kept the IRS up-to-date on your whereabouts, do not be surprised if your first contact from the agency is at a more advanced stage than you would have expected. Although the IRS now has regular access to the National Change of Address database, managed by the U.S. Postal Service, the IRS still expects that you will report your new address on IRS Form 8822, *Change of Address*.
- NOTE: Most IRS deadlines are calculated from the date the notice is mailed, not from the date you receive the notice.

[C] Collection Procedures Outside the IRS

- The IRS began using private collection agencies in 2006 for accounts with amounts due of \$25,000 or less. Private agencies can only contact taxpayers by phone or mail and cannot take any enforcement actions. Taxes due are paid only to the U.S. Treasury, not to private agencies. Debtors can ask to have their case transferred back to the IRS.
- The IRS usually pursues collection according to the procedures outlined in the sections below. However, the IRS also has the option to pursue collection by suing you in a U.S. District Court and securing a judgement against you for the total amount you allegedly owe to the government. By securing such a judgement, the IRS effectively extends its time limit for collection.
- If the IRS determines that it will be more effective to collect from you via a court judgement, it will refer your case to the Tax Division of the U.S. Department of Justice (DOJ). After assessing your case, the DOJ will attempt to settle the case with you without going to trial. For a thorough review of settlement procedures, see the DOJ “Settlement Reference Manual” (available on the DOJ web site).
- If the IRS and the DOJ believe that settlement negotiations will not lead to collection, they may seek a judgement against you in a U.S. District Court. The Federal Debt Collection Procedures Act of 1990 (28 USC §§ 3001-3308) authorizes the DOJ to collect on judgements in many of the same ways that the IRS is authorized to collect on tax debts. The DOJ and the IRS generally coordinate their collection strategies. For more details on these procedures, see the DOJ “Judgement Collection Manual” (available on the DOJ web site).

[20] Voluntary Collection

- If the IRS thinks you owe the government money, it will usually make a variety of attempts to persuade you to pay the money voluntarily before it proceeds with enforced collection. If the IRS gets you to cooperate in any way, it saves them time, staff, and money, and it gives them more information and leverage if they eventually decide that enforced collection is necessary.
- Voluntary collection typically involves one or more of the following measures:
 - Letters from the Service Center.
 - Phone calls and letters from the Automated Collection System.
 - Personal visits, phone calls, and letters from a collection agent at the District Office.
 - Attempts by a collection agent to learn as much as possible about your financial status and ability to pay.
 - Attempts by a collection agent to persuade you to pay in full immediately or to arrange a payment plan.

[21] Service Center Notices

- Computer-generated collection notices from the regional Service Center are, typically, the first method the IRS uses to persuade one to pay taxes. If your case is on a slow track, you may receive one or more notices over the course of six months, with titles like “Request for Payment” and “Notice of Federal Taxes Due.” If your case is on a fast track, the Service Center may omit these preliminary notices and only send you a 10-Day “Final Notice and Demand for Payment ” (see section [26]) which opens the door to enforced collection.
- If you do not pay after the 10-Day “Final Notice and Demand for Payment,” then the Service Center will forward your case to the Automated Collection System.
- Service Center notices can be slowed down by responding in writing to each one and by requesting an additional 60 days to pay.
- The IRS is required to send “delinquent taxpayers” a written notice of the amount of the delinquency at least once a year (26 USC § 7524).

[22] Automated Collection System (ACS) Efforts

- Typically, after the Service Center sends you the 10-Day “Final Notice and Demand for Payment,” the ACS takes over your case. ACS collectors will attempt to contact you by phone and by mail. They have a reputation for being persistent and occasionally unreasonable.
- ACS collectors can be slowed down by making excuses, claiming hardship, and requesting extensions.
- ACS collectors have the power to proceed with a variety of enforced collection tactics, particularly those tactics that can be accomplished with little effort and no personal contact (e.g., filing liens, levying wages and bank accounts, etc.)
- Typically, a case remains in the ACS indefinitely, unless it gets a high score based on:
 - How much money the IRS says is owed.
 - How many tax years are currently delinquent.
 - How many tax years were previously delinquent.
 - How soon the statutory period of limitation on collection will expire.
- If the ACS is not successful in collecting, and your case has a high enough score, the ACS will forward your case to the local District Office for more personal attention.
- If you would rather not deal with the ACS, and you would prefer to meet in-person with a Revenue Officer, ask the ACS to transfer your case to your local IRS District Office. In order for the ACS to seriously consider this request, you will need to raise questions regarding the accuracy of your tax bill.

[23] District Office Efforts

If your case is forwarded to your local District Office, it will be assigned to a Revenue Officer (the official term for a collection agent). A Revenue Officer typically does four things:

[A] The Revenue Officer may make a surprise visit to your home or place of business.

- The purpose of such a visit is to catch you off guard. When you are surprised, you are more susceptible to cooperating and providing useful information.
- If a Revenue Officer calls on you by surprise, be prepared to say “Now is not an acceptable time for me to talk. Let’s make an appointment for some other time in the (distant) future.” The agent should honor your request.
- NOTE: When Revenue Officers investigate people “who use frivolous legal arguments to delay collection,” they are instructed that “field contact should be avoided if at all possible, and will be made only after office methods, such as correspondence, telephone contact, and setting office appointments, have proven unsuccessful.” (*Internal Revenue Manual* § 5.1.11.1.5.1)

[B] The Revenue Officer will try to determine as soon as possible if you are willing to pay in full and immediately.

[C] If you are not willing to pay in full and immediately, the Revenue Officer must then analyze your financial status and your ability to pay.

- Typically, the agent will want you to assist in filling out some version of IRS Form 433, *Collection Information Statement*. This form asks for very detailed information about every aspect of your assets and financial affairs. The purpose of this investigation is to uncover any possible means by which you can pay your tax.
- You do not have any legal obligation to cooperate with a collection investigation, unless the agent has secured a summons. If you do not cooperate, the agent may proceed with enforced collection of any known assets. If the agent has secured a summons, you could also be found in contempt of court.
- Once the agent has made a determination about what your income and assets are, he or she will then use IRS formulas (based on local and national standards) to determine what the IRS will allow for your essential monthly expenses. Any income and assets you have above and beyond this minimum allowance are, as far as the IRS is concerned, resources available for the payment of taxes.

[D] The Revenue Officer, upon reviewing your financial status and ability to pay, will make a decision about payment options you have. The variety of options the agent may offer are detailed below in section [24].

NOTE: Abusive Tax Avoidance Transactions (ATAT) is a special branch of IRS Collection. A WTR could find that their Revenue Officer is from this branch, which focuses on individuals and groups who are “promoting and using abusive tax schemes.” The steps taken are similar to those outlined (although a group could face other sanctions outside of this booklet’s purview).

[24] Payment Options

Once a Revenue Officer has analyzed your financial status and ability to pay, the agent will inform you of your options. Depending on your circumstances, the agent typically will offer one or more of the following options:

[A] Pay in full immediately.

[B] Pay in full, with an extension of the payment deadline.

[C] Pay in full, as soon as possible, by doing one or more of the following:

- Sell off some of your assets.
- Take out a commercial loan.
- Reduce some of your “unnecessary expenses.”
- Defer some of your other debt payments.

[D] Pay in full, via an Installment Agreement. (26 USC § 6159)

- At any point in the process, you can file IRS Form 9465, *Installment Agreement Request*. If the IRS approves your request, you can pay the full amount of your bill in monthly installments (plus interest), typically over three to five years. If the amount you owe is under \$25,000, there is a streamlined process.
- Typically, an installment agreement requires that you waive the statute of limitation on the time the IRS has to collect.
- A major drawback of the installment agreement is that the IRS continues to charge interest on all unpaid taxes, penalties, and interest during the payback period. The interest rate on a bank loan or credit card advance may be lower than the cumulative penalties and interest charged by the IRS.
- The IRS will cancel the agreement if you fail to meet any of its terms, or if your financial condition improves.

[E] Make an Offer in Compromise to the IRS. (26 USC § 7122)

- At any point in the process, you can file IRS Form 656, *Offer in Compromise*. An Offer in Compromise is when you offer to pay the IRS less money than it says you owe, and the IRS decides whether or not to accept that lower amount as payment in full. If the IRS accepts your offer, several payment plans are available.
- An Offer in Compromise can only be filed for the following reasons. You must expect to provide substantial evidence for any of these claims.
 - “Doubt as to Collectibility—I have insufficient assets and income to pay the full amount.”
 - “Effective Tax Administration—I owe this amount and have sufficient assets to pay the full amount, but due to my exceptional circumstances, requiring full payment would cause an economic hardship or would be unfair and inequitable.”
- The IRS has several prerequisites that must be met before it will accept an offer. In general:
 - You must fully disclose all aspects of your financial life on IRS Form 433, *Collection Information Statement*, unless you are claiming “Doubt as to Liability.”
 - You must file any missing tax returns.
 - Your offer must be greater than the net value of your assets.
 - Your offer must be more than the IRS would expect to collect via an installment agreement or enforced collection.
 - Your offer must appear to the IRS as the best chance it has to collect from you within the statutory collection period.
 - You must send an application fee of \$150 and 20% of your total offer as a down-payment, or file Form 656-A to certify that you cannot afford these payments.
 - You must make the initial offer by filing Form 656. The IRS has no legal obligation to accept any offer. Even if the IRS believes a compromise agreement is the best way to resolve a case, it will probably make a counter-offer of a higher amount.
- If you fail to comply with any terms of the compromise agreement, your full tax bill, with all penalties and interest, will be reinstated.

[F] Contend with enforced collection measures (see sections [25]-[29]).

[G] Have your case reported as “Currently Not Collectible” (see section [32]).

[25] Enforced Collection

In most cases, the IRS is required by law to make several attempts at persuading you to voluntarily pay your tax bill before the agency can proceed with enforced collection. If you ignore or resist these attempts, the IRS is legally authorized to forcibly take your money and any property that could be sold to satisfy the amount allegedly due. Sections [26]-[29] and [33] outline the basic procedures for enforced collection.

[26] 10-Day “Final Notice and Demand for Payment”

- Generally, once any tax, penalties, and interest have been assessed to your account, the IRS has 60 days within which it must mail you a 10-Day “Final Notice and Demand for Payment.” (26 USC §§ 6303, 6331) This notice is usually sent by your regional Service Center via certified mail, and it may or may not be preceded by other notices and reminders (see section [21]).
- If you do not pay your tax bill within 10 days of the date on this Notice:
 - Your case is passed from the Service Center to the Automated Collection System.
 - The IRS automatically acquires a lien on all your property and all your rights to property (see section [27]). This lien exists regardless of whether or not the IRS formally files the lien in your state or county records office.
 - The IRS is free to begin levy and seizure proceedings (see sections [28]-[29]). The IRS typically does not exercise this right immediately. Also, in most cases, the IRS is required to send you a 30-Day “Notice of Intent to Levy” before it can actually seize your money or property.

[27] Lien

[A] Generally (26 USC §§ 6320-6327)

- A “lien” is a legal claim on property to secure payment of a debt. If you do not pay your tax bill within 10 days of a “Final Notice and Demand for Payment,” the IRS automatically acquires a lien on all your property (real, personal, tangible, and intangible) and on all your rights to property (e.g., accounts receivable) in order to secure payment of your alleged tax debt. A lien is not a seizure of property. It is simply a legal claim that establishes a right to seize property and a right to collect any proceeds from liquidation of property.
- When the IRS acquires a lien automatically (upon expiration of the “Final Notice and Demand for Payment”), the lien remains vulnerable in several ways because it is “unfiled.” If the IRS wants the lien to carry full force, the IRS must file a public “Notice of Federal Tax Lien” in your state or county office which maintains such records. The IRS is more likely to file a lien if:
 - The total amount due is over \$10,000.
 - There is a threat of bankruptcy or insolvency.
 - There is a likelihood that other creditors may collect before the IRS is able to collect.
 - There is a likelihood that you may sell or transfer assets before collection begins.
- Although the IRS has the option to file a public “Notice of Federal Tax Lien” before seizing your property, the agency is not required to do so. If the IRS does file your lien, the agency is required to notify you within five business days after the filing. (26 USC § 6320)
- Typically, the IRS files a lien in order to secure major assets such as real estate. If a lien is attached to a piece of real estate, then any proceeds from the sale of such real estate can be taken to pay the IRS. Also, if the real estate is transferred rather than sold, the lien remains attached to the property until future sale. The presence of a lien may scare off potential buyers.
- A major consequence of a publicly filed lien is that it can significantly damage your credit rating.

[B] Protecting Property by Transferring Ownership

- If you attempt to protect a specific piece of property by formally transferring ownership of that property to another party (such as a friend, a family member, or a trust), the IRS may still be permitted to attach a lien to that property, even though the other party has acquired legal title to it. The property may be susceptible to lien / levy / seizure if:
 - (1) The IRS is aware of the property in question, and
 - (2) The IRS believes that you attempted to evade collection by transferring ownership of this property to a “nominee” (someone who acts in your behalf), and
 - (3) For all practical purposes, you continue to function as the owner of the property (for example: you are paid little or no consideration for the property; you retain primary use and control of the property; you pay most or all of the expenses related to the property; etc.).
- If you intend to use this method to protect a piece of property from the reach of an IRS lien, consider transferring title to the property as soon as possible, and preferably before you enter the IRS collection process.

[C] Jointly-Owned Property

- If you share ownership of certain property with one or more parties, the IRS may be permitted to attach a lien to that jointly-owned property. In other words, if the IRS asserts a lien against your property generally, any specific piece of property that you jointly own with others might be subject to levy or seizure.
- Whether or not any particular piece of jointly-owned property is susceptible to lien / levy / seizure depends on (a) the type of joint ownership that exists, and (b) the property laws of your particular state. If you have an interest in any property that is, or might be, regarded as jointly-owned, consult a local accountant or tax lawyer to determine whether or not that property is susceptible to lien / levy / seizure.
- If a jointly-owned asset is ultimately seized by the IRS, the “innocent” partner(s) may be able to recoup their interest in the property. (26 USC §§ 6342, 7403, 7426)

[28] 30-Day “Notice of Intent to Levy”

The IRS is required to send you a 30-Day “Notice of Intent to Levy” before levying or seizing any of your property. (26 USC § 6331(d)) This letter explains your options for appeal, and it must be delivered to you in person, sent via certified mail, or left at your dwelling or place of business. This letter gives you one more chance, up to 30 days, to make arrangements with the IRS to pay voluntarily. If this deadline passes, the IRS is free to begin the physical act of seizing your money and property.

WTRs and Marriage

If a WTR is married, the IRS may attempt to collect assets that are jointly owned by the WTR and his or her spouse—even if the spouse owes nothing to the IRS. Married couples, in which either or both spouses are war tax resisters, should consider the following options to reduce the likelihood of seizure of the other spouse’s wages and/or property:

- Minimize the number of assets that the IRS might regard as jointly-owned. In order to do this, you will need to learn about the personal and marital property laws in your state. These laws vary from state to state, and the IRS is generally obliged to recognize these laws when seizing assets. WTRs who reside in community property states (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin) should pay special attention to their state’s personal and marital property laws (IRS Pub. 555, *Community Property*). Depending on which state you live in and what form of ownership you have, the IRS may or may not be able to reach assets owned by your spouse. If you have any question about whether or not an asset might be regarded as jointly-owned, consult a local accountant or tax lawyer.
- Prior to getting married, enter into a prenuptial agreement, which provides that each individual’s separate property will remain separate property after the marriage, and that each individual’s employment income earned after the marriage will remain separate property as well.
- File separate tax returns.
- Maintain separate bank accounts; avoid passing transactions through a partner’s account.
- Maintain separate titles to land, house, car, and other major assets.
- Consider being married “in spirit” while not being married legally.
- (NOTE: Previously, NWTRCC suggested that married couples might protect jointly-owned property by holding it as “tenants by the entirety.” The Supreme Court recently held that spouses should not be allowed to shield their property from federal taxation by classifying it in this way. *United States v. Craft*)

[29] Levy and Seizure

[A] Generally (26 USC §§ 6330-6344)

- If you do not make arrangements to pay the IRS before the deadline passes on the 30-Day “Notice of Intent to Levy,” the IRS is authorized to levy / seize your property (including real, personal, tangible, and intangible property, receivables, and present and future income).
- Levy: A seizure of any property to satisfy a tax debt. In common usage, a levy refers to when the IRS seizes your liquid assets held by third parties—in other words, when the IRS takes your money from your bank, your employer, your stockbroker, etc.
- Seizure: The act of physically taking possession of property by securing and/or removing the property. In common usage, a seizure refers to when the IRS takes property that you have in your personal possession, for example, cash, a house, or a car.
- As you can see from this outline, levy / seizure is not likely to come quickly or by surprise. Prior steps usually include:
 - An audit or investigation.
 - A 90-Day “Notice of Deficiency.”
 - Opportunities for appeal.
 - One or more pointed attempts by the IRS to get you to pay voluntarily.
 - A 10-Day “Final Notice and Demand.”
 - A 30-Day “Notice of Intent to Levy.”

- One should note, however, that if the IRS believes that collection is significantly at risk, the agency is authorized to bypass most of these formalities and go directly to levy / seizure (see section [33]).
- In general, the IRS does not need any court authorization to take levy action. However, the IRS does need a court order to enter private premises in order to seize property. Never let an IRS agent into your home or the non-public areas of your business unless the agent has a valid search warrant.
- In general, when a third party (such as a bank) is served with a levy notice, that party is only obliged to surrender assets which it holds for you (or which it owes to you) at the time of the levy notice. Assets or obligations which accrue after the levy notice is issued generally are not subject to the levy. However . . .
 - The IRS is free to issue as many successive levies as it deems necessary, until all outstanding taxes, penalties, and interest are paid, or until the statute of limitations on collection expires.
 - Levies on salaries and wages are “continuous,” that is, they remain in effect from the time the levy is issued until the time the IRS releases the levy.

[B] Property more likely to be levied / seized

Typically, the IRS will attempt to levy the most liquid and accessible assets first:

- Bank Accounts, Investment Accounts, Accounts Receivable: If a third party has possession of your assets, the IRS can order that party to hand over money from your accounts.
- Wages: If you are an employee, the IRS can order your employer(s) to withhold and hand over a significant portion of your earnings.
- Client Payments: If you are an independent contractor, the IRS can order your client(s) to withhold and hand over a significant portion of any payments due to you.
- Government Payments: The IRS has the option to place a “continuous levy” on specified payments made to you by federal, state, and local governments, including: social security benefits, unemployment benefits, workmen’s compensation, welfare, and federal employee salaries. This program, known as the Federal Payment Levy Program, electronically deducts 15% from each government payment due to you until your outstanding tax bill is satisfied. This authorization to levy government payments overrides the general exemptions noted below. (26 USC §§ 6331(h), 6334(f))

[C] Property less likely to be levied / seized

If readily available liquid assets are insufficient to satisfy the IRS, the agency may choose to seize and auction off almost any other property you possess.

- Personal Property: The IRS prefers not to seize and auction off personal property because this is a cumbersome process and it is often not cost-effective. Expensive and luxury items (such as a car or a boat) would be the most likely candidates for seizure.
- Principle Residence: Your residence is exempt from seizure if the total amount of the levy does not exceed \$5,000. If the levy exceeds this amount, the IRS is discouraged from seizing your residence, but seizure is permitted if the IRS receives approval from a judge or magistrate in a federal district court. Second homes are not subject to this restriction. (NOTE: If a piece of real estate is seized and sold at auction, one has a right to buy back the property at any time within 180 days after the sale. 26 USC § 6337(b)(1)) (NOTE: The IRS will not evict you from your home. If you choose to continue residing in your home after the IRS sells it at auction, the purchaser will need to file an eviction lawsuit in your local state court to have you removed.)

- Business Property: The IRS is discouraged from seizing personal and real property used in your trade or business, but seizure is permitted upon approval of an IRS district director, or if the collection is considered to be in jeopardy.
- Retirement Accounts: Although the IRS prefers not to seize retirement accounts, especially if such an action would create an economic hardship, the agency is permitted to seize money from Keogh, 401(k), IRA, and similar accounts.

[D] Property exempt from levy / seizure

- The IRS is not permitted to seize any property when the estimated cost to seize and sell the property is more than the fair market value of the property to be seized (26 USC § 6331(f)).
- Below are the primary items legally exempt from levy and seizure (26 USC § 6334). Items which may be subject to the automatic 15 % levy on government payments are noted with an asterisk (*).
 - Non-luxury wearing apparel.
 - School books.
 - Fuel, provisions, furniture, personal effects, arms for personal use, livestock, and poultry, that total up to \$6,250.
 - Books and tools for use in your business or profession, that total up to \$3,125.
 - Unemployment benefits.*
 - Undelivered mail.
 - Certain annuity and pension benefits.*
 - Workmen’s compensation.*
 - Income necessary to comply with a court order to provide child support.
 - A subsistence amount of income. This amount is calculated with IRS Publication 1494, *Table of Figuring Amount Exempt from Levy on Wages, Salary, and Other Income*.
 - Certain public assistance payments, including supplemental security income and welfare.*
 - Certain disability payments for military veterans.
 - Assistance payable under the federal Job Training Partnership Act.
 - Your primary residence is exempt if the total amount of the levy does not exceed \$5,000.

[E] Primary options when faced with levy / seizure

- Cooperate with the IRS (see section [40]).
- Endure the consequences of the seizure without resistance, appeal, or publicity.
- Utilize the seizure as a publicity event for consciousness raising (see section [44]).
- Appeal the IRS decision to seize your property, especially on the grounds of economic hardship (see section [30]).
- Attempt to nonviolently delay or obstruct the seizure (see section [42]).
- Attempt to avoid the seizure by making yourself “uncollectible” (see section [43]).
- If faced with a levy on employee wages or independent contractor income:
 - The levy can be avoided by changing employers / clients, at least until the IRS figures out who your new employers / clients are.
 - If you have a sympathetic employer . . .
 - You could quit your job, and resume employment after the threat of levy has passed. In order to cancel the levy, the employer must notify the IRS that you have quit.
 - You could reduce your time commitment and/or rate of pay, so reported earnings do not exceed the amount exempt from the levy.

[30] Collection Appeals

Once the IRS begins collection procedures, you have several options for appeal:

- [A] **Standard Administrative Appeal:** To appeal an action earlier in the collection process, especially prior to any enforced collection action, you can request a standard administrative appeal, and possibly mediation. See section [14] for more details about these options.
- [B] **Collection Appeals Program (CAP):** You are permitted to appeal a variety of collection actions under the CAP procedure. While this procedure is allegedly quicker than other forms of appeal, CAP decisions are final and cannot be contested in court. You can file a CAP appeal either before or after the IRS files a lien, before or after the IRS levies your liquid assets, before or after the IRS seizes your property, and in several other collection-related circumstances. (IRS Pub. 1660, *Collection Appeal Rights*; IRS Form 9423, *Collection Appeal Request*.)
- [C] **Collection Due Process Hearing (CDP):** Even if you pursue a standard administrative appeal or a CAP appeal, you generally have the right to a CDP hearing with the IRS Office of Appeals after you have received formal notice of a lien or levy. CDP decisions may be contested in the U.S. Tax Court or a U.S. District Court. (26 USC §§ 6320, 6330) (IRS Pub. 1660, *Collection Appeal Rights*; IRS Form 12153, *Request for a Collection Due Process Hearing*.)
- [D] **Additional Options:** Depending on your particular circumstances, if the above options fail to provide you with a satisfactory response, you might be permitted to bring an appeal to the IRS Taxpayer Advocate Service, the U.S. Tax Court, or a U.S. District Court. See section [41] for general information regarding appeals.

IRS Enforcement

IRS enforcement figures have been uncharacteristically low in recent years. War tax resisters should note that the IRS and Congress are taking steps to reverse this trend. For more details, see IRS Pub. 3744, *IRS Strategic Plan, Fiscal Year 2005-2009*. The following figures are for FY 2007, and are from IRS Pub. 55B, *IRS Data Book 2007*. All figures are approximate.

- Individual Returns Filed	183,091,000
- Delinquent accounts	8,240,000
- Potential underreporters contacted	3,403,000
- Potential non-filers contacted	1,356,000
- Liens filed	683,659
- Levies served on third parties	3,757,190
- Seizures	676
- Criminal Cases (Not including cases related to organized crime, money laundering, narcotics sales, and other "illegal source" crimes.)	
- Investigations initiated	1,664
- Investigations discontinued	770
- Convictions	732
- Incarcerations (including electronic monitoring)	536

[31] The IRS May Inadvertently Overlook the War Tax Resister

At any point in the process, the IRS may inadvertently overlook a war tax resister or a particular act of war tax resistance. Many WTRs go for years without detection by the IRS. 10-20 years is not uncommon. Some WTRs are never detected. Sometimes, WTRs are identified by the IRS, but then they are “lost” in the system. These oversights can occur for one or more of the following reasons:

- The human and computerized detection systems of the IRS are fallible (see sections [3]-[4]).
- The immense IRS bureaucracy lends itself to traditional bureaucratic problems. Case files are occasionally lost, misplaced, or forgotten.
- IRS computer networks are not fully integrated. Thus, the particular combination of information necessary to identify a WTR or an act of war tax resistance might not be available all in one place.
- Most bureaucrats are not looking for problems. Some bureaucrats intentionally avoid them.
- Some acts of war tax resistance are inherently not easy for the IRS to detect.
- WTRs can take a variety of pro-active measures to avoid detection by the IRS (see section [43]).

Nonetheless, WTRs should be wary. The longer you practice war tax resistance, the greater the likelihood is that the IRS will detect your resistance.

[32] The IRS May Temporarily Suspend the War Tax Resister’s Case

At any point in the process, the IRS may temporarily suspend a war tax resister’s case. Many WTRs go for years without their cases being opened, even though the IRS is technically aware of the resistance. Some WTR cases are never opened. Some WTR cases are opened, partially pursued, and then suspended.

[A] Informal Suspension

Temporary suspension of your case could happen for one or more of the following reasons:

- The IRS has identified you, but simply due to the vast quantity of cases that require investigation, your case is ignored.
- The IRS has identified you, but they cannot readily locate you, your current address, or your phone number.
- The total amount you appear to owe the IRS is relatively small.
- The difficulty and cost of investigating and collecting from you appears disproportionately high compared to the amount of money that might be collected.
- Collection efforts against you might bring an undesirable level of adverse publicity to the IRS.
- The particular IRS employee that is responsible for your case might decide, for any number of personal reasons (stress, fear, sympathy, hassle, time, difficulties, quotas, etc.), to “overlook” your resistance and quietly close the case.

WTRs should be wary. If the IRS is aware of your resistance, it may only be a matter of time before your case is opened (or re-opened), investigated, and sent to collection.

[B] Formal Suspension - Designation as “Currently Not Collectible” (CNC)

- If an IRS collection agent determines that there is nothing available to collect from you, the agent can file IRS Form 53, *Report of Currently Not Collectible Taxes*. If this form is approved by IRS supervisors, all collection activity on your account will be suspended for up to one year. Penalties and interest, however, will continue to be charged. At the end of the designated period, your case will return for review.

- In theory, designation as CNC is difficult to acquire. Generally, the collection agent will first do a full analysis of your financial status and ability to pay (see section [23-C]). The agent must be convinced that there is no likelihood of collecting any money from you, either now or in the foreseeable future. Designation as CNC is most likely if you have no meaningful assets or income, and if you have a chronic health problem or some other hardship which will prevent you from earning additional income in the foreseeable future. In reality, designation as CNC may be easier to acquire than the rules suggest. In 2005, the IRS closed approximately 2 million accounts as CNC.

[33] The IRS May Expedite Collection Measures

- If, at any point in the process, the IRS determines that assessment or collection of a tax will be jeopardized by delay, the IRS has the legal authority (26 USC §§ 6851-6867, 7429) to immediately assess the tax, penalties, and interest and immediately proceed with enforced collection. A “jeopardy assessment” can be made at any time, without notice, audit, or investigation, and only with the approval of the IRS Chief Counsel. (If the action is taken before the current tax year is over, the procedure is specifically referred to as a “termination assessment.”)
- In a jeopardy situation, the IRS is not obliged to follow its normal notification procedures. The IRS may omit sending you any bills, a 10-Day “Final Notice and Demand for Payment,” and a 30-Day “Notice of Intent to Levy.” Instead the IRS may proceed directly to levy or seize your property without any notice. (26 USC § 6331) An IRS decision that your case is in jeopardy can be appealed administratively or judicially.
- Jeopardy assessments are made very rarely, typically in cases where a significant amount of money is at stake, and where the IRS believes that one or more of the following is true:
 - You plan to hide soon.
 - You plan to leave the U.S. soon.
 - You plan to conceal money or property soon.
 - You plan to remove money or property from the U.S. soon.
 - You plan to spend off money soon.
 - You plan to transfer money or property to others soon.
 - Your financial solvency is immediately in jeopardy.
 - You have physical possession of over \$10,000 in cash, and you cannot prove that it belongs to someone else.

[34] The IRS May Assess Civil Penalties and Interest

[A] Assessment

- At any point in the process the IRS may assess, or threaten to assess, civil penalties. If you have any unpaid taxes or penalties, the IRS will also assess interest.
- Civil penalties are regarded as “remedial” penalties. They are assessed in order to reimburse the government for loss, or to coerce an individual to comply with the law. Civil penalties do not create a criminal record and they do not result in incarceration (except for civil contempt of court).
- Civil penalties are the most common penalties imposed on war tax resisters. Civil penalties are much more likely to be imposed than criminal penalties because civil penalties generally can be imposed by IRS employees. Criminal penalties require court action, trial, a stricter burden of proof, and stricter procedural protections.
- Most civil penalties and interest can be assessed at any time by the Service Center, the Automated Collection System, or the District Office.

- If you disagree with, or do not understand, how the IRS computed your penalties and interest, you should request a Penalty and Interest Notice Explanation (PINEX). This computer-generated report details how calculations were made. (See sidebar on “Your IRS Transcripts, p. 21.”)

[B] Abatement

- Civil penalties can be abated (reduced or eliminated) if you can show that:
 - You acted in good faith, and
 - Your action was due to “reasonable cause” and not due to “willful neglect.”
- Interest, generally, cannot be abated unless it was erroneously applied, or unless it is attributable to unreasonable delay caused by IRS management. (26 USC § 6404)

[C] Civil Penalties of Particular Concern to War Tax Resisters

- **NOTE:** Additional penalties not listed here may apply to your situation. All penalties listed below should be considered approximate, both in content and in application. There are many subtle variations and exceptions. Penalties listed are ones in effect at the time of publication. Penalties for previous tax years are generally the same, but particular criteria and fines may vary. Consult legal resources, a tax lawyer, or an accountant for more details.
- **Interest** (26 USC §§ 6601-6631): IRS interest rates are re-determined quarterly, compounded daily, and charged on all unpaid taxes and penalties.
- **Non-Filing** (26 USC § 6651): Penalty for not filing tax return, or for filing late. 5% per month of the unpaid tax up to a maximum of 25%. If failure to file is fraudulent, penalty is 15% per month up to a maximum of 75%.
- **Non-Payment** (26 USC § 6651): Penalty for non-payment or late payment of taxes. 0.5% per month of the unpaid tax up to a maximum of 25%. If a “Notice of Intent to Levy” is sent, or if payment is not submitted immediately on a tax bill determined to be in jeopardy (see section [33]), the monthly rate increases to 1%.
- **Failure to Pay Estimated Taxes** (26 USC § 6654): Penalty for not prepaying approximately 25% of one’s estimated annual taxes on a quarterly basis (via withholding and/or estimated tax payments). Penalty is the applicable interest rate times the amount of the underpayment for the period of the underpayment.
- **Accuracy Related Penalties** (26 USC § 6662): Penalty is 20% of the amount of deficiency due to any of the causes listed below. This penalty cannot be applied to any portion of the deficiency which is penalized as civil fraud.
 - **Negligence or Disregard of Rules and Regulations**—“Negligence” is when there is any failure to make a reasonable attempt to comply with the provisions of the Internal Revenue Code. Negligence includes failure to keep adequate books and records. “Disregard” is when one is aware of a rule or regulation and one carelessly, recklessly, or intentionally ignores its requirement.
 - **Substantial Misstatement of the Value of Property**—Generally, the amount of deficiency due to this reason must be over \$5,000 before penalty is applied. The penalty for “gross” misstatement is increased to 40% of the amount of the deficiency.
 - **Substantial Understatement of Income Tax**—Generally, you must understate the amount of income tax you owe by more than 10% or \$5,000 before this penalty is applied.
- **Civil Fraud** (26 USC § 6663): Penalty applicable when there is (a) a knowing falsehood, (b) an intent to evade taxes, and (c) a tax deficiency. Penalty is 75% of the amount of deficiency due to fraud. NOTE: Open, forthright, and principled refusal to comply is not fraudulent.
- **Frivolous Return** (26 USC §§ 6702-6703): Penalty applicable if you file a tax return that shows a substantially incorrect tax or that does not contain information needed to figure the correct tax *and* (a) you take a “frivolous” position, i.e., a position lacking in sound legal basis, as judged by the courts, or (b) you desire to delay or interfere with the tax laws. Penalty is \$5,000 and must be paid before it can be appealed. NOTE: Courts consistently regard arguments based solely on moral, religious, political, constitutional, conscientious, and similar grounds as “frivolous,” but

WTRs should argue IRS attempts to impose “frivolous” penalties based solely on a letter of conscience enclosed with a normal return.

- **Frivolous Court Case** (26 USC 6673): Penalty for instituting or maintaining court proceedings on the basis of a “frivolous” position or for the purpose of delay. In Tax Court, up to \$25,000 in damages may be assessed. In U.S. District Courts and appellate courts, damages and/or attorney fees for the government may be assessed. (See: 28 USC § 1927; *Federal Rules of Civil Procedure* - Rule 11; *Federal Rules of Appellate Procedure* - Rule 38)
- **False Form W-4** (26 USC § 6682): Penalty for making a statement on a withholding certificate which results in a decrease in the amount withheld and for which there was “no reasonable basis” at the time the statement was made. Penalty is \$500.
- **Employer’s Information Return** (26 USC §§ 6721-6724): Penalty applicable if employer (a) fails to timely file required information returns (e.g., IRS Forms W-2 and 1099), (b) fails to provide all the information required on such returns (e.g., social security number), or (c) provides incorrect information on such returns. Penalty is generally \$50 per return, but penalty may increase significantly if failure is due to “intentional disregard.”
- **Employer’s 100% Penalty** (26 USC § 6672): Also known as the “Trust Fund Recovery Penalty” or the “100% Payroll Penalty.” Penalty applicable to any person who is responsible for collecting or paying withheld income and employment taxes and who, upon notification by IRS, willfully fails to collect or pay such taxes. Penalty is 100% of the amount not withheld and paid over to the IRS. Upon IRS investigation, one or more persons may be found “responsible,” including, but not limited to, an owner, partner, trustee, officer, treasurer, bookkeeper, check-signer, etc. (NOTE: If an employer classifies a worker as an “independent contractor,” but the IRS believes that this worker should be classified as an “employee,” the employer may be subject to this penalty. For more details, see sidebar on “Employee or Independent Contractor?” p. 12.)
- **Employer’s Failure to Deposit Employment Taxes** (26 USC § 6656): Penalty for employer’s failure to timely deposit employment taxes. Staggered penalty rates, up to 15% of the amount due.
- **Non-Cooperation with Levy** (26 USC § 6332): Penalty for failing or refusing to surrender property or money subject to levy. Penalty is 50% of the amount the IRS would have acquired via the levy. Additionally, the IRS may sue the non-cooperator for the amount equal to the value of the property not surrendered, up to the total amount of taxes due.
- **Cash Transactions** (26 USC §§ 6050-I, 6721): Penalty for failure to file IRS Form 8300, *Report of Cash Payments Over \$10,000 Received in a Trade or Business*, or for structuring transactions to evade Form 8300 reporting requirements. If war tax resister is a business, and the business receives more than \$10,000 cash in one or more related payments within a one year period, this penalty may apply. “Cash” generally includes traveler’s checks, money orders, cashier’s checks, and bank drafts. Penalty is generally \$50 per failure to file, but penalty may increase significantly if failure is due to “intentional disregard.” (IRS Pub. 1544, *Reporting Cash Payments of Over \$10,000*.)
- **Failure to Supply Social Security Number to IRS** (26 USC §§ 6721, 6723): Penalty for failure to provide your or another’s social security number in compliance with IRS information reporting requirements. Penalty is \$50 for each missing number the law requires.
- **Failure to Supply Social Security Number to Payor** (26 USC § 3406): If you fail to supply a correct social security number or “taxpayer identification number” to an entity that is legally obliged to report payments it makes to you (e.g., a client who pays you fees for services, a bank for interest, a corporation for dividends, a tenant for rent, etc.), then the IRS can require the payor to withhold 28% of all future payments to you. Once the IRS is convinced that you have reported and will continue to report all your income from that payor, the withholding can be stopped. This procedure, known as “backup withholding,” is not a penalty, per se, but it can have the impact of a penalty on a non-cooperating WTR. (IRS Pub. 1281, *Backup Withholding for Missing and Incorrect Name/TIN*.)

- **Passport Application** (26 USC § 6039-E): Penalty for failure to furnish social security number and other identifying information for the IRS on a passport application. Penalty is \$500. NOTE: Failure to furnish this information is not sufficient grounds for denial of a passport application.
- **Promoting Abusive Tax Shelters** (26 USC §6700): Penalty for organizing or promoting some plan where investors are falsely led to believe that their participation in the plan entitles them to certain tax benefits. Penalty is up to \$1,000 for each act of promotion.
- **Aiding and Abetting** (26 USC § 6701): Penalty can be imposed on anyone who assists or advises another in the preparation of any official tax-related document and who knows that such assistance/advice, if followed, will result in an understatement of the advisee's tax. Penalty is \$1,000. Penalty applies regardless of: (a) the advisee's knowledge of or consent to the understatement; and (b) whether or not the advisor charges or is paid a fee.
- **Civil Contempt of Court** (See 26 USC §§ 7402, 7604): Penalty for willful failure to comply with a court order. The purpose of this penalty is to coerce a person to comply with a court order. A person found in civil contempt can be jailed indefinitely, but must be released when he or she complies with the order or when the judge is convinced that further confinement is futile.

[35] The IRS May Begin Criminal Procedures

- At any point in the process—and in addition to the assessment of taxes, civil penalties, and interest—the IRS may choose to begin criminal procedures. The goal of criminal procedures is to impose punishment (fines and/or imprisonment) for past illegal acts.
- If you are a WTR who intends to firmly resist the IRS at all stages, your chance of entering the criminal process increases some, but still remains highly unlikely.
- In brief, criminal procedures involve the following steps:
 - 1 - Referral to IRS Criminal Investigation (CI):** Criminal procedures begin when someone reports your case to CI. This referral typically comes from an IRS employee, such as an auditor or a collection agent. These CI referrals are rare. CI may also be led to your case by information from undercover operations, tips from informants, and reports from other law enforcement agencies.
 - 2 - Criminal Investigation:** Once your case has been referred to CI, they decide whether or not it is worth investigating. In general, criminal investigation is rare. In regard to war tax resisters, NWTRCC is aware of only a handful of investigations since the 1960s. Some led on to one or more of the steps below; others were dropped. (See section [36].)
 - 3 - Prosecution:** If, upon thorough investigation, CI feels that your case has a good chance at successful prosecution, CI will refer your case to the U.S. Department of Justice (DOJ). DOJ reviews all its CI referrals to select the cases that seem most worthy of prosecution and most likely to result in conviction. Typically, only a small percentage of cases are finally selected by DOJ for prosecution. In regard to war tax resisters, again there have only been a few criminal cases since the 1960s, the most recent being the 2005 case of members of Restored Israel of Yahweh. (See section [37].)
 - 4 - Trial:** If your case is selected by the Department of Justice for prosecution, you will be put to trial in federal court. Tax cases have a fairly high conviction rate, but many convictions have been reversed on appeal. (See section [38].)
 - 5 - Criminal Penalties:** If your trial results in conviction, criminal penalties are certain. However, out of the many thousands of people who engage in some form of war tax resistance, fewer than 30 people are known to have gone to jail related to WTR since World War II, most on minor charges such as civil contempt of court. The longest sentence on a criminal charge was 27 months for Joe Donato of Restored Israel of Yahweh; he served 22 months in federal prison. (See section [39].)

For a chart of the most serious WTR cases see www.warresisters.org/pages/convicted_wtr.htm.

[36] Investigation

[A] Generally

- Investigation by IRS Criminal Investigation (CI) is rare. If your case happens to come to the attention of CI, they must then decide if your case is worth devoting the staff and resources required for investigation. Typically, CI will not choose to investigate a case unless it suspects that significant amounts of money are at stake (usually over \$10,000) and/or it believes that prosecution of the particular individual involved would serve as a useful deterrent.
- How will you know if you are under criminal investigation?
 - A “Special Agent” enters the picture. Special Agents work for IRS Criminal Investigation, usually out of regional Service Centers or local District Offices.
 - Someone you know is questioned by a Special Agent. Typically, CI investigations do not begin with the suspect, but with people related to the suspect (e.g. family, friends, neighbors, business associates, co-workers, employers, employees, accountants, bankers, insurance agents, travel agents).
 - A Special Agent contacts you. After supporting evidence is gathered, you may be the last person questioned. The IRS is not required to notify you that you are under investigation unless a Special Agent contacts you directly.
 - An IRS employee, such as an auditor or collection agent, may choose to inform you that your case has been referred to CI or that your case is currently under investigation. However, such an admission is unlikely.
- Upon conclusion of the investigation, CI will make a decision about whether or not to refer your case to the U.S. Department of Justice (DOJ) for prosecution. CI considers a variety of factors (see section [37]) and will refer a case only if it seems likely to be selected for prosecution. If CI does not refer the case to DOJ, it returns the case to IRS administration (usually to an auditor or a collection agent).

[B] Suggested Guidelines if You Become Aware that You Are Under Criminal Investigation

- Get a lawyer. Most authorities suggest that you immediately retain a federal criminal defense lawyer and that you have no further contact with the IRS except through your lawyer. You do have the right, however, to represent yourself.
- Remain silent. Investigators have questioning techniques that will catch you off guard and could lead you to lie or confess within minutes. If you are questioned, you can legally respond with:
 - “I am going to remain silent.”
 - “I first need to speak with my attorney.”
- Close the door, hang up the phone, or leave the premises. If an IRS or FBI agent comes to your door, calls you on the phone, or comes to your place of business, you have no legal obligation to speak with that agent. You can politely say something like “I have an absolute policy of not speaking with law enforcement officials without first speaking with my attorney.” You might want to repeat this if the agent persists. Then you can feel free to terminate the conversation.
- Remember that the IRS has the authority to secure mail covers and telephone taps.
- Do not lie, it will only create problems. Perjury is a felony crime. Silence is not.

[C] During All Interactions with the IRS and FBI, You Have the Following Legal Rights:

- The right to remain silent.
- The right to consult a lawyer before speaking.
- The right to withhold all documents and financial information (unless you are served with a summons).
- The right to refuse entry to your private premises, such as your home or non-public areas of your business (unless the investigator has a warrant or “writ of entry”).

[37] Prosecution

- If, upon thorough investigation, CI feels that your case has a good chance at successful prosecution, they will refer your case to DOJ. Such referrals are rare, however, and most investigations are quietly dropped. DOJ examines all CI referrals and selects only the cases that are extremely likely to result in conviction.
- CI and DOJ use a variety of criteria to determine whether or not your case should be prosecuted. Typically, the following factors are considered:
 - The extent to which your case involves “flagrant or repetitious conduct so egregious that resort to criminal sanctions becomes warranted.”
 - The number of years you have not filed tax returns. (Cases must usually span more than 3 years.)
 - The total amount that the IRS says you owe. (Cases must usually average at least \$2,500 a year in unpaid taxes. One authority observes that the typical amount of taxes owed in criminal cases is over \$70,000.)
 - Your history of non-compliance and tax delinquency with the IRS.
 - The extent of your truthfulness and cooperation during investigation.
 - Your education, occupation, and savvy.
 - Your criminal record, if one exists.
 - The local / national publicity value of prosecuting your case in order to deter others from performing similar actions. (Public figures are particularly susceptible to prosecution.)
 - The likelihood and extent of adverse media attention on the IRS.
 - The elements of your case that might cause a jury to be sympathetic (e.g., age, health, moral considerations).
 - The likelihood of conviction. (The government must be able to prove your guilt “beyond a reasonable doubt.”)
 - The availability of staff and resources for prosecuting your case.
- If DOJ selects your case for prosecution, it will decide between felony and misdemeanor charges on the basis of factors such as:
 - The egregiousness of your WTR actions.
 - Whether you are “a leader or simply a follower” in WTR activities.
 - The extent to which WTR and other “tax protest” activities are a problem in the jurisdiction.
 - The extent to which relevant case law supports a particular charge.
- Generally, the IRS is prohibited from criminal prosecution if more than six years have passed since the alleged offense. (26 USC § 6531)

[38] Trial

- If your case is selected by the Justice Department for prosecution, you will be put to trial in a U.S. District Court, and your chance of conviction is better than 80%.
- *Federal Rules of Criminal Procedure* will apply to your case, including rules regarding arrest, bail, indictment, arraignment, plea, discovery, trial, sentencing, and appeal.
- In trial, the government must prove that you acted willfully and that you are guilty “beyond a reasonable doubt.” (The assessment of civil penalties only requires that the government show “clear and convincing evidence.”)
- Verdicts can be appealed to a U.S. Court of Appeals and to the U.S. Supreme Court.
- If you are ultimately convicted, criminal penalties can be applied.

The Relative Risks

Civil Penalties—If the IRS detects your war tax resistance, there is a high risk that the agency will assess civil penalties. Generally, civil penalties consist of fines and interest based on the amount of tax the IRS believes you owe. Except for civil contempt of court, civil penalties do not result in incarceration.

Enforced Collection—There is a moderate risk that the IRS will use one or more of the following methods to forcibly collect the taxes it believes you owe. The IRS may:

- Seize money from your bank account. (The IRS typically pursues the most liquid and easily accessible assets first.)
- Require your employer to withhold and pay over a portion of your wages.
- Seize and auction off any significant assets you possess. (This method is used infrequently because it is a lengthy process, and it is often not cost-effective for the IRS.)

Criminal Penalties—There is an extremely low risk that the IRS and the Department of Justice will attempt to prosecute you on felony or misdemeanor criminal charges. WTRs are rarely subject to criminal investigation. Criminal prosecution of WTRs is even more unlikely. However, if prosecution is successful, one could face significant fines and/or a prison sentence. Out of the many thousands of people who engage in some form of war tax resistance, fewer than 30 people are known to have gone to jail related to WTR since World War II. (See chart at www.warresisters.org/pages/convicted_wtr.htm.)

[39] Criminal Penalties

[A] Generally

- In the extremely rare event that you are investigated, selected for prosecution, tried, and convicted, you can then expect to face punishment by criminal penalties. However, one must remember that out of the many thousands of people who engage in some form of war tax resistance, only a handful have ever been subject to criminal penalties.
- In order to be convicted of any crime, the government must prove that you acted “willfully” (i.e., you voluntarily and intentionally violated a known legal duty) and that you are guilty “beyond a reasonable doubt.”

[B] Sentencing Variables

- The specific penalties one receives in a criminal conviction depend on a variety of factors. The amount of fine you must pay and/or the amount of time you must spend in prison depend on considerations such as:
 - Sentencing limits set in the statute which defines the crime. (These are the figures listed with each crime below.)
 - The Criminal Fine Enforcement Act of 1984 (18 USC § 3571) supercedes many statutory fine limits. In general, for most of the misdemeanors listed below, the maximum permissible fine is now \$100,000 for individuals (\$200,000 for corporations). The maximum fine for felonies is now \$250,000 for individuals (\$500,000 for corporations).
 - U.S. Sentencing Guidelines. These guidelines instruct federal judges regarding what specific factors must be taken into account in increasing or decreasing the severity of any particular sentence.
 - Plea-bargaining agreements.
 - Judicial discretion.

- In tax cases, probation is a more common sentence than direct imprisonment. However, a common condition of such probation is that one must file current and past due tax returns and one must pay current and past due taxes.
- Generally, the cost of government prosecution is added to fines and prison sentences.
- If you are convicted of criminal tax violations, you can expect substantial civil penalties to be imposed as well.

[C] Crimes of Particular Concern to War Tax Resisters

- **NOTE:** Additional crimes not listed here may apply to your situation. All crimes outlined below should be considered approximate, both in content and in application. There are many subtle variations and exceptions. Crimes listed are ones in effect at the time of publication. Particular criteria and maximum penalties may vary for crimes committed in previous years. Year and dollar amounts listed below indicate the maximum prison sentence and fine specified in the statute, but actual sentences will vary. See section [39-B] for sentencing variables. Consult legal resources or a criminal lawyer for more details.
- **Tax Evasion** (26 USC § 7201): Government must prove that you willfully attempted (by performing some specific action) to evade the assessment or payment of a tax which you legally owed. Felony / 5 years / \$100,000.
- **Failure to Collect or Pay Over Tax** (26 USC § 7202): Government must prove that you willfully failed to collect, account for, or pay over any taxes which you were legally obliged to collect, account for, or pay over (e.g., withheld income taxes, excise taxes, etc.). Felony / 5 years / \$10,000.
- **Failure to File Return, Supply Information, or Pay Tax** (26 USC § 7203): Government must prove that you had a legal obligation to (a) file a tax return, or (b) keep certain records, or (c) supply certain information, or (d) pay tax, by a specific time, and that you willfully failed to perform such obligation. Misdemeanor / 1 year / \$25,000.
- **Fraudulent Form W-4, Employee's Withholding Allowance Certificate** (26 USC § 7205): Government must prove that you were legally obliged to supply a Form W-4 to an employer, and that you willfully failed to supply the form, or that you willfully supplied the form with false or fraudulent information. Misdemeanor / 1 year / \$1,000.
- **Perjury** (26 USC § 7206(1)): Government must prove that you willfully submitted a return or any other document which (a) was false as to a material matter, (b) you did not believe was fully true and correct, (c) you signed under penalties of perjury, and (d) you signed with specific intent to violate the law. Felony / 3 years / \$100,000.
- **Aiding and Abetting** (26 USC § 7206(2)): Government must prove that you willfully assisted or advised another in the preparation or presentation of any official tax-related document (such as a tax return) that was fraudulent or false as to a material matter. Felony / 3 years / \$100,000.
- **Concealing Property from Assessment or Levy** (26 USC § 7206(4)): Government must prove that you removed, or concealed property with the intent to (a) evade assessment of a tax on that property, or (b) evade lawful seizure of that property. Felony / 3 years / \$100,000.
- **Filing a Fraudulent Return or Other Document** (26 USC § 7207): Government must prove that you willfully submitted to the IRS a tax return or other document that was fraudulent or false as to a material matter. Misdemeanor / 1 year / \$10,000.
- **Failure to Obey Summons** (26 USC § 7210): Government must prove that you willfully failed to appear or produce documents after being summoned by the IRS. Misdemeanor / 1 year / \$1,000.
- **Corrupt or Forcible Interference** (26 USC § 7212(a)): Government must prove that you endeavored, either corruptly or by force, to obstruct or impede the administration of the Internal Revenue Code. This is known as the "omnibus clause," because it can be used by the government in many situations when other charges are difficult to prove. Felony / 3 years / \$5,000.
- **Forcible Rescue of Seized Property** (26 USC § 7212(b)): Government must prove that you forcibly rescued or attempted to rescue property seized by the IRS. Felony / 2 years / \$500 or twice the value of the property rescued if greater than \$500.

- **Failure to Collect, Account for, or Pay Over Employment Taxes** (26 USC §§ 7215, 7512): Government must prove that you were a person responsible for collecting, accounting for, or paying over employment taxes (such as withheld income, social security, and unemployment taxes), and that, upon notice, you willfully failed to perform these legal obligations. Misdemeanor / 1 year / \$5,000.
- **Cash Transactions** (26 USC §§ 6050-I, 7203): Government must prove that you willfully failed to file IRS Form 8300, *Report of Cash Payments Over \$10,000 Received in a Trade or Business*, or that you structured transactions to evade Form 8300 reporting requirements. If war tax resister is a business, and the business receives more than \$10,000 cash in one or more related payments within a one year period, this penalty may apply. “Cash” generally includes traveler’s checks, money orders, cashier’s checks, and bank drafts. Felony / 5 years / \$25,000.
- **Aiding and Abetting in a Crime** (18 USC § 2): Government must prove that you knowingly participated in a criminal venture and that you sought by your actions to make the venture succeed. Anyone who aids or abets in a crime is punishable as a principal. Specific felony or misdemeanor penalties depend on the specific crime you are convicted of participating in.
- **Making a False or Fraudulent Claim Against the U.S.** (18 USC §§ 286-287): Government must prove that you willfully made a false or fraudulent claim against the U.S. for property or money (e.g., a fraudulent claim for a tax refund). Felony / 5-10 years / indefinite fine.
- **Conspiracy** (18 USC § 371): Government must prove that you conspired with at least one other person to defraud or commit an offense against the U.S., and that you knowingly and voluntarily committed an overt act in furtherance of that conspiracy. Specific felony or misdemeanor penalties depend on the specific crime you are convicted of participating in.
- **False Statements** (18 USC § 1001): Government must prove that you willfully and knowingly made a false statement or representation or made or used a false document related to a material matter within the jurisdiction of any department or agency of the U.S. Felony / 5 years / indefinite fine.
- **Obstruction of Justice** (18 USC § 1505): Government must prove that you influenced, obstructed, or impeded the administration of U.S. law either corruptly, or by threat, or by force. Felony / 5 years / indefinite fine.
- **Criminal Contempt of Court** (18 USC § 401): If a U.S. court determines that you are willfully acting in contempt of its alleged authority, that court has the power to punish you with a fine and/or imprisonment as it sees fit. A charge of contempt is typically brought on by (a) a willful violation of a court order, (b) some behavior that obstructs “the administration of justice,” or (c) an act of disrespect for the alleged authority of the court.

[40] The War Tax Resister May Cooperate with the IRS

At any point in the process, a war tax resister may choose to cooperate with the IRS by:

[A] Deciding to Cooperate with the IRS

If you feel pressured to cooperate with the IRS against your conscience, consider taking the following actions before you make a decision:

- Engage in some sort of “clearness” counseling before giving up or tiring out.
- Talk with a WTR counselor.
- Talk with friends or other contacts who are WTRs.
- Find support from anyone who is sympathetic with your beliefs and actions.
- Review your motives and goals for doing WTR.
- Review your method of WTR. Consider revising your method or trying a new one.

[B] Filing with the IRS

- If you file a late tax return before the IRS contacts you about it, the IRS has a policy of not criminally prosecuting such cases.
- If you have not filed for more than a couple of years, you may want to consult an accountant or a tax lawyer before resuming filing. The presence and assistance of a tax professional can help you avoid a variety of problems with the IRS and can help you limit the amount of tax, penalties, and interest you will owe.

[C] Paying the IRS

- Paying the IRS will stop collection procedures. However, even if you pay, civil penalties and interest will still be applied.
- Paying the IRS does not prevent the agency from doing a criminal investigation and pursuing criminal penalties. However, any cooperation you offer greatly reduces the likelihood of criminal procedures.
- If you decide to pay, consider all the payment options described above in section [24].
- If you decide to pay, avoid making a payment with a personal check. Doing so identifies your bank and account number for future IRS levies.

[41] The War Tax Resister May Appeal an IRS Decision or Action

At any point in the process, a war tax resister may appeal an IRS decision or action.

[A] Grounds for Appeal

- 1 - An IRS decision or action will cause you significant hardship.** An appeal for this reason will typically be recognized only if you can prove that significant hardship would immediately and directly result from the IRS decision or action. “Hardship” means being unable to provide the necessities of life, such as food, clothing, shelter, or medical care, for you or your family.
- 2 - An IRS decision or action was not based on the facts.** An appeal for this reason will typically be recognized only if you can prove that the IRS decision or action was not based on correct information or was not based on all the relevant facts. IRS computers and employees are often missing all the correct and relevant information about your case.
- 3 - An IRS decision or action was unlawful.** An appeal for this reason will typically be recognized only if you can prove that the IRS actually violated an applicable law. Because the tax law is so massive and complex, it is not uncommon for an IRS decision or action to violate the letter and/or intent of the law.
- 4 - You want to delay further IRS decisions and actions.** Any appeal usually slows down (and sometimes temporarily suspends) the IRS collection process. However, if the IRS believes that you are appealing solely for the purpose of delay, it will promptly dismiss your appeal. If you appeal to the U.S. Tax Court or to any of the traditional federal courts solely for the purpose of delay, your appeal will be dismissed, and you may also receive a significant penalty for instituting a “frivolous” proceeding.
- 5 - You want the IRS to recognize your position as a war tax resister.** An appeal for this reason will typically fail, because objection to paying taxes solely on moral, religious, political, constitutional, conscientious, or similar grounds has consistently been regarded by the courts as “frivolous.” (See sidebar on “Frivolous Claims,” p. 44) Frivolous cases are routinely subject to dismissal and punishment. IRS policy specifically prohibits Appeals Officers and Taxpayer Advocates from hearing any cases based on “frivolous” grounds. (NOTE: Appeals based on constitutional arguments have occasionally resulted in small successes for war tax resisters. If you are willing to risk being penalized for making a “frivolous” claim, an appeal based on some untried circumstance or argument may prove worthwhile.)

[B] Methods of Appeal

1 - Within the IRS

- You can legally appeal, verbally and in writing, almost any IRS decision or action. For example, you can appeal:
 - Computer calculations or “corrections.”
 - Findings and decisions made by auditors, investigators, collection agents.
 - Actions taken by auditors, investigators, collection agents.
 - Decisions by managers, supervisors, appeals officers.
 - Proposed tax, civil penalties, interest.
 - Assessed tax, civil penalties, interest.
 - Bills and demands for tax, civil penalties, interest.
 - Enforced collection of tax, civil penalties, interest (including liens, levies, seizures).
- Usual methods of appeal within the IRS include:
 - Verbal and written requests to the auditor, investigator, or agent assigned to your case.
 - If the IRS employee assigned to your case does not provide you with a satisfactory response, ask to speak with his/her supervisor.
 - Administrative appeal procedures (see section [14]).
 - Collection appeal procedures (see section [30]).
- IRS Taxpayer Advocate Service
 - If the usual methods of appeal are not successful, you can contact the IRS Taxpayer Advocate Service. Taxpayer Advocate’s (TA’s) are located in all IRS Service Centers and District Offices. TA’s have a certain amount of independence from the rest of the IRS system. Their dual purpose is to promptly help resolve taxpayer problems and to protect taxpayer rights. TA’s can be contacted by phone or in writing.
 - TA’s have the power to intervene in IRS actions if such actions are causing, or are about to cause, you significant hardship. TA’s can help you determine which person you need to speak with, or which IRS form you need to fill out in order to make your appeal. In order to have a TA intervene in your case, File IRS Form 911, *Application for Taxpayer Assistance Order*, or call the TA’s toll-free number (877)777-4778.
 - TA’s cannot respond to your concerns about criminal investigations, Freedom of Information Act requests, and “frivolous” matters, such as moral, religious, political, and constitutional concerns. TA’s do not have the power to change IRS legal or technical determinations.
 - For more information, see IRS Pub. 1546, *The Taxpayer Advocate Service of the IRS*.

2 - Outside the IRS

- Seek intervention by your congressional representatives.
- Appeal to the U.S. Tax Court (see section [16]).
- Appeal to a U.S. District Court, Federal Claims Court, Appellate Court, or the Supreme Court (see section [17]).
- File a suit against the IRS in a U.S. District Court or Federal Claims Court.
 - You can attempt to file a suit against the IRS in order to:
 - Seek protection of constitutional rights.
 - Sue for a refund, if you believe the IRS owes you money.
 - Sue for damages, if an IRS employee recklessly or intentionally disregards the tax law.
 - Seek an injunction against the IRS in order to stop enforced collection procedures.
 - However, most attempts to sue the IRS are prohibited by: The Federal Tort Claims Act (28 USC § 2680(c)); The Federal Declaratory Judgement Act (28 USC § 2201); and The Anti-Injunction Act (26 USC §7421(a)).

“Frivolous” Claims

Millions of people refrain from paying part or all of the taxes required of them by law. While most people will comply with the IRS if and when they are confronted, many others refuse to comply. As a result, the IRS and the Department of Justice are familiar with a multitude of arguments—some weighty, and some absurd—used to defend the non-payment of taxes. The government refers to all these defenses as “frivolous” arguments. The IRS has made it a priority to squelch such activity. The most common claims are based on interpretations of the law which routinely have been rejected by the courts, including:

- The filing of a tax return is voluntary.
- The payment of tax is voluntary.
- The government can assess taxes only against people who file returns.
- Wages, tips, and other compensation received for personal services cannot technically be considered as “income” for tax purposes.
- Only foreign-source income is taxable.
- Federal Reserve Notes currently used in the United States are not valid currency and cannot be taxed, because Federal Reserve Notes are not gold or silver and may not be exchanged for gold or silver.
- One is not a “citizen” of the United States, but is merely a citizen of a particular state (e.g., Montana) and, thus, one is not subject to federal income tax laws.
- The United States consists only of the District of Columbia, federal territories (e.g., Puerto Rico, Guam, etc.), and federal enclaves (e.g., American Indian reservations, military bases, etc.) and does not include the “sovereign” states. If one does not live within the “United States,” as so defined, one is not subject to the federal tax laws.
- One is not a “person” as defined by the Internal Revenue Code and, thus, is not subject to the federal income tax laws.
- The only “employees” subject to federal income tax are employees of the federal government.
- Federal income taxes constitute a “taking” of property without due process of law, violating the Fifth Amendment.
- Filing a tax return, or providing financial information, violates the Fifth Amendment privilege against self-incrimination.
- Compelled compliance with federal income tax laws is a form of servitude in violation of the Thirteenth Amendment.
- All federal income tax laws are unconstitutional because the Sixteenth Amendment was not officially ratified, or because the state of Ohio was not properly a state at the time of ratification.
- The Sixteenth Amendment does not authorize a direct non-apportioned income tax and thus, U.S. citizens and residents are not subject to federal income tax laws.
- Filing an income tax return violates the Fourth Amendment right to privacy and protection from unreasonable searches and seizures.
- The Internal Revenue Service is not an agency of the United States but rather a private corporation, because it was not created by positive law (i.e., an act of Congress) and, therefore, the IRS does not have the authority to enforce the Internal Revenue Code.
- Taxpayers are not required to file a federal income tax return, because the instructions and regulations associated with the Form 1040 do not display an OMB control number as required by the Paperwork Reduction Act.
- African Americans and/or Native Americans can claim a special tax credit as reparations for slavery and other oppressive treatment.

(continued on next page)

“Frivolous” Claims

(continued)

Unfortunately for war tax resisters—who are distinguished from most tax protestors by their conscientious refusal to pay taxes that finance war or militarism—the government also regards the following arguments as “frivolous”:

- One who has a moral, religious, or otherwise conscientious objection to certain government activities is free to withhold payment of taxes which support those activities.
- If one’s religion obliges one to withhold payment of certain taxes, one is free to do so because the First Amendment protects rights to the free exercise of religion.
- International law—such as the UN Charter and the Nuremburg Principles—permit, if not require, conscientious refusal to pay war taxes.
- Using the 9th Amendment to the U.S. Constitution to back conscientious objections to paying for military spending.

If you intend to raise any of the arguments listed above . . .

- The government will likely regard your claim as “frivolous.” Frivolous claims are defined as claims that lack sound legal basis, as judged by the courts.
- The government may penalize you for raising a “frivolous” claim (see sections [34] and [39]).
- The government will likely reject your appeal.
 - IRS regulations state that “appeal procedures do not extend to cases involving solely the failure or refusal to comply with the tax laws because of moral, religious, political, constitutional, conscientious, or similar grounds.” (26 CFR 601.106(b))
 - The IRS and Department of Justice have successfully prosecuted a multitude of cases based on the above claims. War tax resisters who intend to defend their actions on these grounds face a solid body of judicial precedent which generally rejects any such justification of war tax resistance.
 - However, appeals based on constitutional arguments have occasionally resulted in small successes for war tax resisters. If you are willing to risk being penalized for making a “frivolous” claim, an appeal based on some untried circumstance or argument may prove worthwhile.

Sources:

- “The Truth About Frivolous Tax Arguments,” IRS Chief Counsel, www.irs.gov (Nov. 30, 2007). Reviews 24 tax protestor arguments and summarizes court decisions defending the government’s position.
- Notice 2008-14, January 2008, www.irs.gov. Lists 43 frivolous arguments.
- IRS Pub. 2105, *Why Do I Have to Pay Taxes?*
- *Criminal Tax Manual*, U.S. Department of Justice, Tax Division.

[42] The War Tax Resister May Delay or Obstruct the IRS

At any point in the process, a war tax resister may attempt to delay or obstruct the IRS. The WTR should be aware, however, that if the IRS believes you are acting solely to delay or obstruct, the agency may impose penalties and proceed more quickly.

[A] Goals of Delay and Obstruction

- To increase the chance that your case will be inadvertently overlooked (see section [31]).
- To increase the chance that your case will be temporarily suspended (see section [32]).
- To increase the chance that your case will be closed in an intentionally hasty manner (e.g., when the employee responsible for your case approaches a deadline, fills a quota, or becomes frustrated dealing with you).
- To increase the chance that your case will be closed by the expiration of a statutory period of limitation.
- To increase the chance that specific issues in your case will be reconsidered or forgotten, simply because time has passed.
- To increase the chance that your case will be transferred to another (hopefully less astute) employee.
- To physically prevent the IRS from proceeding with investigating or collecting on your case.

[B] Methods of Delay and Obstruction

- If the IRS demands to meet with you, make an appointment as far into the future as possible.
- Shortly before an appointment, call to postpone the meeting as far into the future as possible.
- When going to an appointment, leave some necessary records at home. Then request additional time to furnish these records.
- Demand time to consult with your lawyer or accountant. Typically, this request must be honored. (26 USC § 7521)
- Request time to review your records.
- Request an appointment to speak with a manager or supervisor.
- Question the accuracy of calculations and bills. Ask for verification and explanation of all matters. IRS employees are obliged to make sure that all figures are accurate and justified.
- Avoid signing any document that waives or extends the IRS deadline for assessing or collecting a tax.
- Submit an "Offer in Compromise" or "Installment Agreement Request" (see section [24]). Collection is usually suspended while such items are pending.
- Any time the IRS makes a demand for payment (e.g., collection notices, phone calls, levy and seizure proceedings), make a verbal and/or written request for more time to make arrangements to pay. Claim hardship.
- Encourage your employer / bank not to cooperate with an IRS levy on your wages / savings.
- File for bankruptcy. Generally, filing for bankruptcy will suspend all IRS collection efforts until decisions are made by a court. However, bankruptcy can affect many aspects of your life, so such a move should be considered carefully.
- Most methods of appeal (see section [41]) effectively delay the IRS process.
- Most methods of avoidance (see section [43]) effectively delay or obstruct the IRS process.
- Nonviolent physical obstruction. (These methods are illegal.)
 - Physically obstruct the seizure of property subject to collection.
 - Physically retrieve property that has been seized by the IRS.
 - Physically obstruct access to or use of IRS premises (e.g., a "sit-in").
 - Seize and remove IRS property.
 - Erase or dispose of IRS records.
 - Disable IRS computer hardware and/or software.

[43] The War Tax Resister May Attempt to Avoid the IRS

At any point in the process, a war tax resister may attempt to avoid the IRS by using one or more of the following methods. (NOTE: Many of these methods are illegal.)

[A] Refrain from Voluntarily Providing Information to the IRS

- Refrain from filing tax returns.
- Refrain from filing information returns.
- Refrain from submitting payments.
- Refrain from contacting the IRS directly. If you need information, go through a friend.
- Refrain from responding to IRS phone or mail queries.
- If the IRS manages eventually to contact you in person, remember your constitutional rights to remain silent, to consult a lawyer, and to refuse entry to your private premises (see section [36]). If you are willing to risk being jailed for contempt of court, you can refrain from cooperating with the IRS even in the face of a court order.

[B] Make Yourself as “Uncollectible” as Possible

1 - Protect Your Income

- Be self-employed. Do not have any income withheld or in a position to be withheld.
- Diversify your sources of income. Try to maintain a variety of clients or employers.
Do not have all your income come from just one or two sources. The more sources of income you have, the harder it is for the IRS to identify and collect from those sources.

2 - Reduce Your Assets

- Live simply.
- Do not possess assets that the IRS would be likely to seize.
- Lease major items rather than purchase (e.g., home, car, computer, major appliances, furniture).

3 - Conceal Your Assets

- Hide cash.
- Keep vehicles and other valuable assets from view of the IRS—in another town, state or country, if possible.
- Ask friends to take physical possession of your assets, either for the short-term or the long-term.
- Refrain from using bank accounts and credit cards.
 - Barter.
 - Do business with cash, money orders, cashiers checks, or friends’ checks.
- If you must have a bank account:
 - Use several banks, not just one.
 - Keep balances as low as possible.
 - Switch banks annually.
 - Try to keep your account in a nearby city or, if possible, in another state or country.

4 - Transfer Ownership of Your Assets

- NOTE: Transfers should be completed as early as possible in the IRS process, and especially before collection procedures begin (see section [27-B]).
- Transfer ownership of assets to family members or friends.
- Transfer ownership of assets to a corporation.
- Transfer ownership of assets to a trust in which you have no controlling powers.

[C] Reduce or Eliminate Third Party Information Available to the IRS

- Arrange with employers not to submit IRS Form W-2.
- Arrange with clients not to submit IRS Form 1099.
- Do not have bank accounts or investment portfolios that report interest income on IRS Form 1099.
- Do business off the record, in cash or via barter.
- Do not hold title to major assets such as land, buildings, vehicles, securities, etc.
- Reduce or eliminate use of your social security number.
- Reduce or eliminate participation in any state or federal programs (e.g., social welfare benefits, loan programs, etc.)
- Reduce or eliminate registration with any state or federal agencies (e.g., U.S. Passport Agency, state motor vehicle agencies, etc.)

[44] The War Tax Resister May Raise Awareness Regarding Militarism

At any point in the process, a war tax resister may raise awareness regarding the reasons behind one's resistance. Although raising such concerns with the IRS and the courts is officially regarded as "frivolous," many WTRs have had meaningful conversations with government officials and the media.

[A] Opportunities to raise awareness include:

- Written statements to IRS personnel in response to bills and queries.
- Discussions with IRS auditors and collection agents.
- Discussions with attorneys, judges, juries, and court personnel.
- Public actions and statements to the media on occasions such as:
 - Notification of penalties applied
 - Court appearances
 - Investigations
 - Levies
 - Seizures
 - Auctions
 - Arrests

[B] Topics to begin discussion might include:

- The reasons for one's war tax resistance.
- The principles to which one is committed.
- The risks of PAYING war taxes.
- What one will do with the resisted war taxes.

Notes

War Tax Resisters and the Internal Revenue Service

[Bracketed numbers refer to sections in this booklet.]

