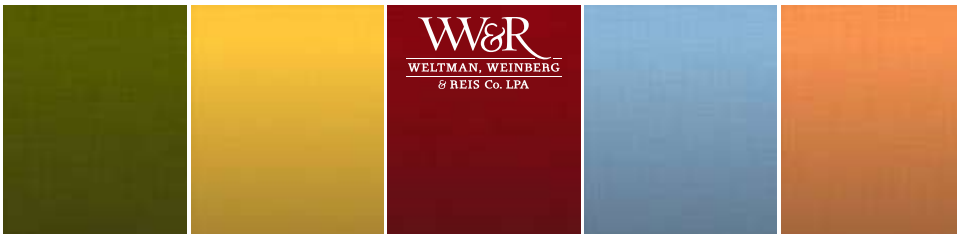


Revenue Collections

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Presented by:
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Criminal vs. Civil Remedies

- In practice, collection of monies over a wide range of known tax liability is best suited by the civil use of the state's provisions for execution





Statute of Limitations

- Civil action: within 3 years after tax was due or return was filed, whichever is later
- Prosecution of a related criminal offense: within 3 years after commission of offense
- In the case of fraud, failure to file a return or omission of the required percentage of income to be reported, prosecution may commence within 6 years after commission of offense



Attempts to Evade or Defeat Tax

- To establish a violation, must prove following:
 - Attempt to evade or defeat a tax or payment thereof
 - An additional tax due and owing
 - Willfulness
- Government must prove each element beyond a reasonable doubt





Civil Remedies



Prejudgment: Protecting Ability to Collection Taxes



Pre-suit Letter and Complaint

- Caution taxpayer at earliest opportunity that you will be seeking to recover all available costs of collection
- Include language about recoverable costs

Preparing for Collection: Obtaining Copies of Tax Returns

- All years commencing with first year of suit, or for some more recent years to determine potential sources for collection





Preliminary Judgment Considerations



Pre-lawsuit Considerations

- Remedies for a default:
 - Act on any remedy contained in the security agreement
 - Reduce the claim to judgment
 - Foreclose
 - Enforce security interest by any available judicial procedure



Pre-lawsuit Considerations

- Pre-lawsuit considerations:
 - Jurisdiction / venue
 - Statute of limitations
 - Necessary documentation
 - Business versus individual
 - Nature of the claim
 - Amount of claim v. cost of litigation
 - Likelihood of collection



Locating Assets, Writ of Execution, Judgment Debtor Examinations





Locating Assets

- Public records for consumer searches
 - Comply with guidelines set in the Fair Debt Collection Practices Act
 - Internet
 - Listed telephone numbers
 - Lists of neighbors on the same street



Locating Assets

- Public records for commercial searches
 - Information you may obtain from neighborhood residents and/or businesses is much broader
 - Internet
 - www.companiesonline.com
 - www.state.oh.us/sos
 - www.state.oh.us/liquor/
 - Various court websites
 - Search is for real property ownership





Writ of Execution

- Garnishment
- Bank attachment
- Exemption claims
- Third party claims
- Turnover order



Overall Strategy

- Asset review and knowing your debtor
 - Identifying the debtor
 - Locating the debtor
 - Identifying the debtor's financial position



Overall Strategy

- Game plan
 - When not to pursue a judgment
 - How to effectively get the debtor's attention
 - Pre-litigation procedures
 - Prejudgment procedures
 - Obtaining judgment

Questions?

Please feel free to contact me anytime. Thank you.



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The content of this presentation is not intended to constitute legal advice on specific matters, create an attorney-client relationship, or be legally binding in any way.