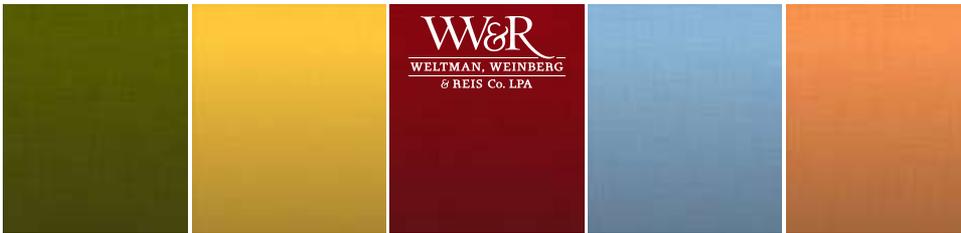


# Revenue Collections

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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](http://www.companiesonline.com)
    - [www.state.oh.us/sos](http://www.state.oh.us/sos)
    - [www.state.oh.us/liquor/](http://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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