

KING'S
TAXDischarge NEWSLETTER



FEATURE



INSERT



**The Tax Practice
Clinic**

USING TAX TRANSCRIPTS

TAX TRANSCRIPTS



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THE IMPORTANCE OF VERIFICATION

In a nutshell, personal income taxes are dischargeable if they meet the three time-rules for priority taxes (the three-year rule for the tax year, the two-year rule for the tax return, and the 240-day rule for the assessment). Filing the bankruptcy before all three time-periods have expired will render the tax non-dischargeable.

The most frequent mistake made by tax/bankruptcy lawyers is filing the bankruptcy case prematurely. The reasons for premature filing include ignorance of the rules, failure to factor in the various tolling events which may extend any of the time-periods, and failure to verify information provided by the taxpayer.

During the initial conference the client will typically provide a history of his tax problem, with information about extensions for filing the returns, when the returns were filed, whether audits were done, and when taxes were assessed or secured by liens. The dates that each of these events occurred is often critical to making a professional determination of dischargeability.

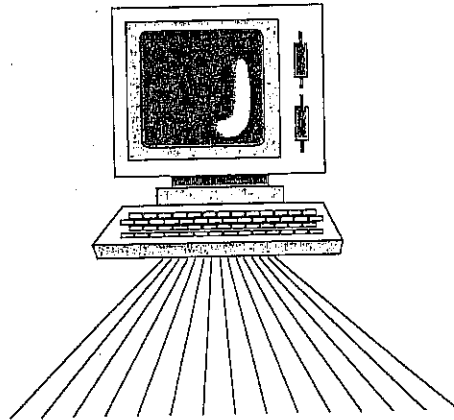
Some of this information may be found on documents the client brings into the office. For example, a notice of tax lien will often include dates of assessments. However, as a general rule it is a grave mistake to rely on the information provided by the taxpayer! Clients frequently give incorrect information about extensions, tax returns, assessments, offers-in-compromise, appeals and liens.

The only way this information can be corroborated is by obtaining and understanding the taxpayer's *tax transcripts* for the tax years in question.

TYPES OF TRANSCRIPTS

THE MFTRA-X

The basic work-a-day tax transcript is the MFTRA-X, sometimes called the "literal transcript" because it explains in English each of the coded events appearing on



it. An example appears on the opposite page. The MFTRA-X is the *sine'que non* of tax discharge analysis.

This transcript is the easiest to handle for the attorney who is not an experienced IRS insider. It shows the tax year, the type of tax (e.g. "1040" is personal income tax), the balance due, the

date the tax was assessed, any extensions to file, the date the return was received, any tax liens, and dates of typical tolling events such as offer in compromise, prior bankruptcy, tax litigation, audit and the like.

The MFTRA-X is deficient in at least two respects; it does not show the county in which a tax lien was recorded, and it does not clearly indicate if the tax return was a service filed return (substitute for return, or "SFR"). Both of these items may be critical to a tax discharge analysis.

The MFTRA-X may contain warning signals that the

CONTINUED ON BACK PAGE...

KEY TO MFTRA-X FEATURES (RIGHT)

The code numbers may be interpreted using the IRS ADP (automated data processing) tax code booklet, available from the IRS on request. A list of the most important codes appears on the back page of this report.

1. THE TAX YEAR
2. TAXPAYER'S SOCIAL SECURITY NUMBER
3. NAME OF TAXPAYER
4. THE TYPE OF TAX [should be "1040"]
5. THE BALANCE OWED, interest and penalties accrued
6. THE TAX REPORTED ON THE TAXPAYER'S TAX RETURN [if one was filed; a figure here indicates the taxpayer filed his return. A zero indicates a probable SFR]
7. DATE TAX RETURN WAS FILED [taxpayer's or SFR]. Must have been filed at least 2 years ago for chapter 7 discharge.
8. THE IRS CODE NUMBERS (see ADP booklet)
9. DATE TAX WAS ASSESSED. Must be over 240 days.
10. AMOUNT SHOWN ON TAX RETURN
11. EXTENSIONS TO FILE RETURNS INDICATED. Extends start of the three-year period.
12. DATE LIEN WAS FILED. May cause tax to be secured.
13. DATE OFFER-IN-COMPROMISE FILED. May toll running of the 240-day period.
14. DATE OFFER-IN-COMPROMISE TERMINATED. Add 30 days.

A TYPICAL MFTRA-X TAX TRANSCRIPT

See KEY to MFTRA-X features on opposite page

001847 PPID QZ067 9340127946 562-64-0237
 PAGE NO-0001
 DATE REQUESTED 03-08-96
 FORM NUMBER: 1040

IRS EMPLOYEE 9340127946
 PRINT DATE 03-11-96
 TAX PERIOD: DEC 1990

TAXPAYER IDENTIFICATION NUMBER: 52-64-0007
 ** SPOUSE TAXPAYER IDENTIFICATION NUMBER: 53-70-9039

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 1700 R. JW VIEW COURT
 WALNUT CREEK CA 94595-2202-507

<<<<POWER OF ATTORNEY/TAX INFORMATION AUTHORIZATION (POA/TIA) ON FILE>>>>

--- ANY MINUS BELOW SIGNIFIES A CREDIT AMOUNT ---

ACCOUNT BALANCE: 618.76
 ACCRUED INTEREST: 228.06 AS OF 03-11-96
 ACCRUED PENALTY: 83.96 AS OF 03-11-96
 ACCOUNT BALANCE PLUS ACCRUALS: 930.78

** EXEMPTIONS: 05 **FILING STATUS: MARRIED FILING JOINT
 ** ADJUSTED GROSS INCOME: 89,467.55
 ** TAXABLE INCOME: 73,767.55
 TAX PER RETURN: 16,436.00 PRINCIPAL INDUSTRY ACTIVITY CODE:
 ** PER RETURN OR AS ADJUSTED

02-07-92 RETURN DUE DATE OR RETURN RECEIVED DATE (WHICHEVER IS LATER)
 04-06-92 PROCESSING DATE

CODE	EXPLANATION	DATE	MONEY AMOUNT (IF APPLICABLE)
150	RETURN FILED AND TAX ASSESSED	04-06-92	16,436.00
806	CREDIT FROM WITHHELD TAXES & EXCESS FICA	02-07-92	15,994.10-
460	EXTENSION OF TIME FOR FILING TO 08-15-91	04-15-91	
166	LATE FILING PENALTY	04-06-92	100.00
276	PENALTY FOR LATE PAYMENT OF TAX	04-06-92	26.51
196	INTEREST ASSESSMENT	04-06-92	50.35
582	LIEN	07-28-92	
582	LIEN	12-03-93	
960	RECEIVED POA/TIA	01-06-94	
480	OFFER IN COMPROMISE ON FILE	01-31-95	
481	OFFER IN COMPROMISE REJECTED	12-21-95	

TYPES OF TRANSCRIPTS CONT'D...

tax return was a substitute return. If the column marked "Tax per return" shows a zero, this suggests (but is not conclusive) that the return is a substitute prepared by the IRS. In that event, another kind of transcript, the MFT0-30, may solve the mystery.

THE MFT-30

The MFT-30, or individual master file transcript, is virtually entirely in IRS code, and is therefore usually unintelligible to the average mortal lawyer. However, if the tax return was not the taxpayer's prepared return but an "SFR," the letters SFR will usually show up in the lower left quarter of the transcript. This is the smoking gun that shows that a substitute return was filed.

However, if there is any question about which county the lien was recorded in, the MFT-30 will not help; a copy of the actual lien should be obtained from the county recorder's office.

The top of the MFT-30 may say IMF MCC TRANSCRIPT SPECIFIC.

THE TAXPAYER'S ADMINISTRATIVE FILE

Where the transcripts leave some doubt about the information needed, the next step should probably be requesting the taxpayer's entire file with a simple Freedom of Information request. This can be done with a letter accompanied by a power of attorney or authorization for release of information.

THE BMF TRANSCRIPT

If what is sought is information regarding business related tax claims such as payroll taxes or excise taxes, the individual master file may or may not contain the salient information. In this case, the taxpayer's *business master file transcript* is the relevant document to be requested. Any business related tax return, such as the 941, 940, 1120, 1065 will be found on the BMF.

An individual's personal assessment for the 100% penalty, however, may not appear on the BMF; for this information it will be necessary to request a "non-master file transcript (NMF).

TAXMOD TRANSCRIPT

Another transcript sometimes favored by tax/bankruptcy practitioners is the TAXMOD (terminal output display) transcript. Like the MFT-30, the TAXMOD transcript is mostly in code and is difficult to interpret without prior experience working for the Service, or knowing someone you can call and cry Help!

OBTAINING THE TRANSCRIPTS

The taxpayer may typically obtain a copy of his MFTRA-X, MFT-30 or BMF on request by appearing at the local IRS Disclosure Office. Another way is for the

attorney to mail a request for the transcript, accompanied by a signed power-of-attorney or authorization to release information. The turn-around time for a mailed request may be from a week to several weeks.

Some disclosure offices will take a faxed request from the attorney, if accompanied by a faxed power-of-

LIST OF KEY IRS CODES FREQUENTLY FOUND ON TAX TRANSCRIPTS

150	Date tax assessed
290	Additional tax assessed
300	Additional tax assessed
308	Additional tax assessed
320	Fraud penalty
420	Audit indicated
460	Extension to file tax return to [date]
480	Offer in compromise filed
481	Offer in compromise rejected
482	Offer in compromise withdrawn
520	IRS litigation (may include bankruptcy)
521	IRS litigation ended
560	Assessment statute extended
570	Additional liability pending
582	Tax lien recorded
583	Tax lien released
594	Tax return previously filed this period
595	Account referred to examination
876	Additional return filed
977	Amended return filed

attorney or release, and will return the transcripts by fax within a day or two. Many local field offices and service centers will produce transcripts on request, as well. Do not request transcripts directly from the IRS National Computer Center in West Virginia.

In an emergency, the attorney can often obtain verbal confirmation of key dates and events over the phone by telephoning the local IRS *practitioner's hotline*.

TAKE YOUR TIME

Examining the transcripts is not something you rush through. In a typical case you should devote at least an hour to as much as three or four hours studying the details to assure that you have spotted all possible items which may extend a time period, or suggest some other problem with dischargeability. For example, if the MFTRA-X shows a penalty for fraud (code # 320), this may indicate a conviction or charge of tax fraud, which if upheld by the bankruptcy court could prevent discharge of the tax in chapter 7 (but not in chapter 13 absent bad faith).

MFTRA TRANSCRIPT TYPE OF TAX AND TAX PERIOD

TAX PERIOD 00 0000 = The type of tax and period ending year and month

Types of tax:	01	Form 941	Periods are abbreviated year
	02	Form 1120	year month month (YYMM)
	03	Form 720	example: Dec. 31, 1988 = 8812
			March 31, 1987 = 8703

LIST OF COMMONLY USED TRANSACTION CODES APPEARING ON IRS TRANSCRIPTS.

<u>TRANSACTION CODES</u>	<u>TITLE</u>
150	Return filed and tax liability assessed
160	Manually computed late filing penalty
161	Manual abatement of filing penalty
166	Generated late filing penalty
167	Generated abatement of filing penalty
170	Failure to pay estimated tax penalty
171	Manual abatement of estimated tax penalty
176	Generated estimated tax penalty
177	Generated abatement of estimated tax penalty
180	Deposit penalty
181	Manual abatement of deposit penalty
186	Generated deposit penalty
187	Generated abatement of deposit penalty
190	Manually assessed interest
191	Abatement of interest
196	Generated assessment of interest
197	Abatement of generated interest
270	Manual failure to pay penalty
271	Abatement of failure to pay penalty
276	Generated failure to pay penalty
277	Generated abatement of failure to pay penalty
280	Bad check penalty
290	Additional tax assessed - adjustment
291	Abatement of prior tax assessment
300	Additional tax by Examination Division
301	Abatement of prior assessment by Examination
308	Additional tax assessed by Examination
309	Abatement of prior Examination assessment
320	Fraud penalty
321	Abatement of fraud penalty
336	Interest assessed on additional tax
340	Restricted Interest assessment
341	Abatement of restricted interest assessment
350	Negligency penalty
351	Negligency penalty abatement
360	Collection fees (usually lien fees)
430	Estimated tax payment
459	Prior quarter liability
460	Extension of time for filing
470	Taxpayer claim pending
520	Litigation instituted

521	Reversal of TC520
530	Uncollectible account
531	Reversal of uncollectible account
570	Additional liability pending
582	Lien indicator
610	Remittance with return and date return filed
611	Remittance with return dishonored
612	TC 610 processed in error
640	Advance payment of determined deficiency
650	Depository receipt-federal tax deposit
652	Reversal of federal tax deposit
660	Estimated tax deposit
662	Reversal of estimated tax deposit
670	Subsequent payment (voluntary or by levy)
671	Dishonored subsequent payment
672	Correction of TC670 processing error
700	Manual credit applied from another tax period
701	Dishonored subsequent payment
706	Generated credit applied from another tax module
710	Overpayment credit applied from prior tax module
712	Correction of TC710
716	Generated credit applied from prior tax module
736	Generated interest overpayment
768	Earned income credit
770	Interest due taxpayer
772	Reversal of interest due taxpayer
776	Generated interest due taxpayer
800	Credit withheld for taxes
806	Credit withheld for taxes and excess FICA
807	Reversed for withheld taxes
820	Credit transferred to another period
821	Reversed overpayment credit transfer
826	Generated overpayment credit transferred out
830	Overpayment credit elected to be transferred to the next period of tax
832	Reversal of TC830
836	Generated overpayment credit elect transferred to the next period of tax
840	Manual refund
841	Refund reversed
844	Erroneous refund
846	Generated refund
976	Duplicate return filed
977	Amended return filed