MEMORANDUM FOR TAXPAYER ADVOCATE SERVICE EMPLOYEES

FROM: Nina E. Olson
National Taxpayer Advocate

SUBJECT: Advocating for Taxpayers Facing Passport Revocation/Denial

The purpose of this memorandum is to provide guidance to TAS employees advocating for taxpayers with seriously delinquent tax debt(s) subject to the IRS’s Passport Certification Program.

Background
In 2015, Congress passed the Fixing America’s Surface Transportation Act (FAST Act), Pub. L. No. 114-94, §32101(e), 129 Stat. 1311, 1732 (2015), which requires the Department of State (DOS) to deny a passport application and allows it to revoke or limit a passport if the IRS certifies a taxpayer’s seriously delinquent tax debt. The right to travel internationally is a fundamental right, protected by the Due Process Clause of the Constitution. Under the Universal Declaration of Human Rights, adopted in 1948 by the United Nations after a unanimous vote (including the United States) “[e]veryone has the right to leave any country, including his own, and to return to his country.” The National Taxpayer Advocate expressed concerns that the IRS’s implementation of the passport program fails to protect taxpayers’ right to travel as well as their rights promised under the Taxpayer Bill of Rights. See the National Taxpayer Advocate’s blog and the Fiscal Year 2018 Objectives Report to Congress.

Despite the IRS’s significant discretion to exclude cases from passport certification, the IRS originally refused the National Taxpayer Advocate’s repeated requests to exclude already open TAS cases. Consequently, I issued TAOs in about 750 cases. The IRS eventually agreed not to certify those taxpayers at risk of passport certification while the case in TAS remains open.
However, the issue of whether new taxpayers coming to TAS before they are certified is still being disputed.

The passport certification program was intended to assist the IRS with recalcitrant taxpayers who have substantial tax debts. The National Taxpayer Advocate believes that certifying taxpayers who are already actively working with TAS to try to resolve their tax debts ignores Congressional intent and serves no purpose. In Fiscal Year 2017, TAS closed over 2,700 balance due cases where the taxpayer owed more than $50,000 and received full or partial relief. TAS obtained full or partial relief in 78.9 percent of all cases closed in Fiscal Year 2017. As discussed below, taxpayers are excluded from certification if they receive Currently-not-Collectible (CNC) hardship status, but taxpayers with similar circumstances who come to TAS because they experience a significant hardship and have been unable to obtain a collection alternative or otherwise resolve their debts on their own would be certified. The legislative history of the FAST Act makes clear that Congress did not intend for a seriously delinquent tax debt to be certified to the Department of State until the taxpayer’s administrative rights have been exhausted or have lapsed, and one of a taxpayer’s administrative rights under the Taxpayer Bill of Rights (TBOR) is to seek assistance from TAS.

**Identifying a Seriously Delinquent Tax Debt**

IRC § 7345(b) defines a seriously delinquent tax debt as an “unpaid, legally enforceable federal tax liability of an individual,” which:

- Has been assessed;
- Is greater than $50,000 (indexed annually for inflation, $51,000 in 2018); and
- Meets either of the following criteria: (1) a notice of lien has been filed under Internal Revenue Code (IRC) § 6323 and the Collection Due Process (CDP) hearing rights under IRC § 6320 have been exhausted or lapsed; or (2) a levy has been made under IRC § 6331.

A seriously delinquent tax debt does not include accrued but unassessed interest or penalties. It also does not include non-tax debts, such as Affordable Care Act assessments, criminal restitution assessments, child support obligations, and Foreign Bank and Financial Report (FBAR) penalties.

There are statutory exclusions, which include a debt:

- That is being timely paid through an installment agreement (IA) or offer in compromise (OIC);

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1 Data from TAMS (Jan. 11, 2018).
2 IRM 5.10.15.10.2, Seriously Delinquent Tax Debt (Jan. 8, 2018)
• For which collection is suspended because the taxpayer requested a CDP hearing or a CDP hearing is pending; or
• For which collection is suspended because the taxpayer has requested relief from joint liability (known as innocent spouse relief).  

IRM 5.19.1.5.19.4, Discretionary Certification Exclusions, provides additional exclusions from certification. At the time of publishing this Interim Guidance, the IRM included the following discretionary exclusions:

• Debt determined to be in currently not collectible (CNC) status due to hardship;  
• Debt that resulted from identity theft;
• Taxpayers in a disaster zone;
• Debt of a taxpayer in bankruptcy;
• Debt of a deceased taxpayer;
• Debts included in a pending CIC or pending IA; and
• Debt for which there is a pending claim and the resulting adjustment is expected to result in no balance due.  

The IRS will reverse a certification if the taxpayer meets either a statutory or discretionary exclusion. Additional information can be found in three sections of IRM 5.19.1.5.19, Passport Certification in Case of Certain Tax Debts:

• IRM 5.19.1.5.19.2, Seriously Delinquent Debt;
• IRM 5.19.1.5.19.3, Statutory Certification Exclusions; and
• IRM 5.19.1.5.19.4, Discretionary Certification Exclusions.

The IRS began taking steps to certify qualifying taxpayers for passport revocation/denial on January 22, 2018. TAS will take a two-phased approach in its advocacy for taxpayers with seriously delinquent debt.

TAS Advocacy – Understanding the Taxpayer's Situation
TAS has witnessed firsthand the devastating effects on taxpayers who have had to give up their passports for even a temporary period. TAS has worked a number of cases where the IRS lost or delayed returning passports to applicants for Individual Taxpayer Identification Numbers. We have seen situations where taxpayers were unable to visit a dying family member, undergo urgent medical

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3 IRC § 7345(b)(2)(i).
4 Currently not collectible (CNC) status removes taxpayer accounts from active collection inventory. IRM 5.19.1.7.2, Currently not Collectible (CNC) Procedures (Oct. 5, 2017). The IRS places taxpayer accounts into CNC Hardship status when “collection of the liability would create a hardship for taxpayers by leaving them unable to meet necessary living expenses.” IRM 5.19.1.2.6.8.3, Hardship CNC Closing Codes (Oct. 18, 2017).
surgery abroad, and travel for business as part of a job. TAS is likely to see similar situations because of the passport certification program.

New taxpayers coming to TAS prior to certification may not understand why the IRS is taking action and may be frustrated because they have been voluntarily trying to resolve their tax debt. Taxpayers who come to TAS after certification may feel it is unfair for the first notice they receive about the passport certification to be a notice that the IRS already certified their tax debts. Planning and paying for international travel can be a stressful experience, especially when taxpayers do not have certainty that they will be able to follow through with their plans. Exercising understanding and compassion for taxpayers in these cases, and acting with the appropriate sense of urgency, is vital.

Now that the IRS has begun certifying qualifying taxpayers to the Department of State, the TAS advocacy approach will depend on whether the IRS has not yet or has already certified the seriously delinquent tax debt to the Department of State.

**Advocating for Uncertified Taxpayers with Seriously Delinquent Tax Debt**

If a taxpayer has an aggregate debt over $50,000 (indexed annually for inflation, $51,000 in 2018), check for the existence of the unreversed TC 971 AC 641 on ENMOD. If no such TC is present, determine if the debt is eligible for passport certification (a levy or a notice of lien issued, CDP rights exhausted or lapsed, and the debt is not eligible for any statutory or discretionary exclusions). If eligible, immediately elevate the case to the Local Taxpayer Advocate (LTA) and seek the advice of a Revenue Officer Technical Advisor (ROTA) to confirm eligibility for passport certification.

If the ROTA confirms eligibility, the LTA will issue a Taxpayer Assistance Order (TAO) on Form 9102-DE, Passport Discretionary Exception TAO Template, to the Collection Policy Passport Analyst via the *SBSE Passport Group mailbox. This TAO orders the IRS to exclude the taxpayer's seriously delinquent tax debt(s) from certification to the Department of State (DOS) for the purposes of passport revocation, denial, or limitation while the taxpayer has an open TAS case. In the TAO template, address the specific facts and circumstances of the taxpayer's case. For example, state whether the taxpayer appears eligible for an installment agreement, an offer in compromise, or CNC status. If the taxpayer wants to submit an installment agreement but needs to first file a delinquent return and gather financial documentation, then the TAO should state TAS is working with the taxpayer to bring the taxpayer into compliance and enter into an installment agreement. If the taxpayer has a pending claim with the IRS (amended return, audit reconsideration, penalty abatement request, late original return filing after the IRS filed a substitute return, etc.), add this information to the TAO and explain whether this pending claim is expected to reduce the seriously delinquent debt below the certification threshold.
The LTA is not required to issue an Operation Assistance Request (OAR) or discuss the matter with the IRS before issuing a TAO requesting exclusion from certification based on the existence of the open TAS case because the IRS, as a matter of policy, has refused to exclude these cases from certification.

If the IRS complies with this TAO, send an email to the "SBSE Passport Group mailbox as a case closing action to notify the Collection Policy Passport Analyst of the TAS case closure so the analyst can remove the open TAS case certification block.

**Advocating When the IRS Certified a Taxpayer's Debt**

Identify taxpayers whom the IRS certified to the Department of State. These taxpayers will have an unreversed TC 971 AC 641 on ENMOD. *This means TAS employees must immediately alert the taxpayer to this situation and determine its urgency.*

TAS employees will discuss with the identified taxpayers the IRS passport revocation/denial certification process and steps that can be taken to resolve their debt so the IRS will decertify their accounts.

As part of their discussion with the taxpayer, TAS employees will determine and discuss the impact the passport revocation/denial will have on the taxpayer, and document the discussion in TAMIS. In other words, find out if the taxpayer currently has a passport, has a passport application or renewal pending (and the application number), and whether the taxpayer has any plans for foreign travel or other need for their passport.

TAS advocacy for taxpayers whom the IRS certified to the Department of State is a three-step process:

- Determine the urgency of the taxpayer's need for a passport or for decertification for another urgent reason;
- Resolve the seriously delinquent debt; and
- Request decertification of the debt with the Department of State.

**Determine the Urgency of the Taxpayer's Need for a Passport**

Although TAS will always use TAOs to advocate when resolving the debt of certified taxpayers, understanding the taxpayer's urgency will help you determine whether to use expedite decertification procedures. In addition to asking about plans for foreign travel, ask if the certification might affect the taxpayer in other ways, such as compromise of a background check or security clearance that could jeopardize employment.
Resolve the Debt
Advocate for a resolution that will remove the taxpayer from the criteria for the Passport Certification Program. For example:

- Completely satisfying the debt;
- Meeting a statutory or discretionary exclusion that will exclude the taxpayer's debt from certification (e.g., Collection Due Process hearing, CNC hardship status, pending or accepted IA, OIC);
- Having an underlying liability recalculated to reflect the taxpayer did not owe a seriously delinquent debt (e.g., audit reconsideration, appeals conference, penalty abatement, innocent spouse relief, or identity theft); or
- Providing evidence that the IRS erroneously certified the debt as seriously delinquent, meaning the taxpayer was not eligible for certification according to the statute (e.g., the taxpayer was serving in a combat zone or the liability did not exceed $50,000 (indexed annually for inflation, $51,000 in 2018)).

Analyze the situation and discuss the options with the taxpayer. Once you have decided on an option, gather the necessary documentation to advocate for the selected relief. If the case is complex and may take time to fully resolve, discuss with the taxpayer the possibility of entering into an Installment Agreement or Partial Pay Installment Agreement while working on a longer term resolution, in order to have the taxpayer decertified. Ensure your TAMIS histories show the reason the advocacy option was selected and your efforts to secure the necessary documentation.

Because the passport certification constitutes an extreme significant hardship, issue a TAO on Form 9102-PDRE, Passport Debt Resolution or Exclusion TAO Template, to the appropriate IRS function (ACS, CSCO, Exam Reconsideration, IDTVA, etc.). The TAO will require the IRS function to:

- Take the appropriate action to resolve the taxpayer’s debt; and
- If the taxpayer has plans for foreign travel within 45 days or lives abroad, has a passport application or renewal pending (and provides the passport application number), also require the function to complete and sign page one of Form 14794, Expedited Passport Decertification, and submit it to the SB/SE Passport Analyst, with a copy to TASS.

LTAs should have a conversation with the responsible management official before issuing the TAO, advising him or her of our actions, per IRM 13.1.20.2 (5) Note, Determining When to Issue a Taxpayer Assistance Order. Order the management official to act within one business day if the taxpayer has plans for foreign travel; otherwise, order the management official to act within five business days.
For some of these TAOs, the LTA may have difficulty identifying the responsible management official. Since there is no assigned OAR preceding the TAO, the function may have several management officials whose employees could have been assigned the work via the OAR process. The appropriate OAR liaison or OAR liaison manager may be able to help the LTA choose an appropriate management official to contact and to receive the TAO.

If the taxpayer’s need for foreign travel is extremely urgent, see the Taxpayers Seeking Emergency or Humanitarian Relief from the Department of State section below that explains the discretion the Department of State can exercise while the taxpayer remains certified.

Decertify the Debt with the Department of State
Once the taxpayer meets a criterion for decertification under IRM 5.19.1.5.19.3, Reversal of Certification (e.g., the debt is fully paid or is subject to a statutory or discretionary exclusion), the taxpayer’s debt needs to be decertified with the Department of State. In many cases, the taxpayer’s debt will be decertified systematically, indicated by a TC 972 AC 641 on ENMOD. However, some methods used to resolve the taxpayer’s seriously delinquent tax debt will require the IRS to manually decertify the taxpayer’s debt. Consult Appendix A, Manual And Systemic Decertification of Taxpayer Debts Under the Passport Certification Program, at the end of this memorandum for lists of manual and systemic situations.

Take the following steps to ensure the IRS notifies the Department of State of the decertification:

<table>
<thead>
<tr>
<th>Taxpayer / Account Status</th>
<th>TC 972 AC 641 and CP 508R posted to ENMOD (systemic decertification)</th>
<th>Taxpayer eligible for decertification but TC 972 AC 641 and/or CP 508R did not appear on ENMOD (needs manual decertification)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taxpayer has no passport and no plans to apply for one, or the taxpayer has a passport, but does not meet the urgent travel definition below</td>
<td>No OAR, no TAO needed, but verify the taxpayer received the CP 508R.</td>
<td>TAO on Form 8102-DC (and an action item for manual decertification) seeking action within 7 workdays. Send to the &quot;SBSE Passport Support mailbox.&quot;</td>
</tr>
<tr>
<td>Taxpayer lives abroad or plans foreign travel within 45 days and has a passport application or renewal pending</td>
<td>TAO on Form 8102-EDC to request expedite decertification with the DOS within one business day. Send to the &quot;SBSE Passport Group mailbox.&quot;</td>
<td>TAO on Form 8102-EDC to request expedite decertification with the DOS (and an action item for manual decertification) within one business day. Send to the &quot;SBSE Passport Group mailbox.&quot;</td>
</tr>
</tbody>
</table>
Prior to issuing a TAO, LTAs should have a conversation with the Collection Policy Passport Analyst, advising of our action, per IRM 13.1.20.2 (5) Note, Determining When to Issue a Taxpayer Assistance Order. Once the IRS decertifies the taxpayer’s debt, the Department of State advises that it could take 45 days for the Department of State to reflect the decertification in its systems. Elevate the case to the *TAS TAG Policy and Guidance mailbox and Attorney Advisor Amanda Bartmann if: (1) the Department of State does not accept the taxpayer’s passport application within two weeks of the IRS transmitting the decertification to the Department of State, or (2) the taxpayer needs a passport sooner than two weeks following the decertification, but the Department of State does not accept the taxpayer’s passport application. Also, see the Taxpayers Seeking Emergency or Humanitarian Relief from the Department of State section below that explains the discretion the Department of State can exercise while the taxpayer remains certified.

**TAO Appeals and Elevation**

LTAs and DEDCAs will follow the guidance and timeframes in IRM 13.1.20.5, TAO Appeal Process, if the IRS appeals a passport related TAO. LTA and DEDCA TAO appeal-related secure emails must be copied to both the &TAS TAO mailbox and Attorney Advisor Amanda Bartmann.

**Taxpayers Seeking Emergency or Humanitarian Relief from the Department of State**

The Department of State has some discretion under Section 32101(e) of the FAST Act when the IRS notifies the Department of State that an individual has a seriously delinquent tax debt. If the taxpayer has emergency or humanitarian reasons for travel, the Department of State (not the IRS) may:

- Issue a passport;
- Limit a previously issued passport only for return travel to the United States; or
- Issue a limited passport that only permits return travel to the United States.

If the IRS has certified the seriously delinquent tax debt, and the taxpayer cites an emergency or humanitarian situation that could be relieved through use of this Department of State discretion (e.g., risk of bodily harm to the taxpayer or a family member, taxpayer stranded in a war zone or country in the midst of civil strife, need to travel to receive medical care or care for a family member):

- Advise the taxpayer of the discretion available to the Department of State;
- Recommend the taxpayer contact the Department of State directly to seek relief; and
- Immediately send a secure email to Attorney Advisor Amanda Bartmann with the TAS case number and a summary of the situation. TAS is exploring if we can forward taxpayer requests for relief to the Department of State at the National Taxpayer Advocate level.

**Case Coding**

Use issue code 930, Passport Revocation/Denial, as the secondary issue code in applicable cases, including pre-certification efforts to resolve the taxpayer's debt to prevent IRS certification of the debt to the Department of State. The primary issue code will be the process used to resolve the taxpayer's debt (audit reconsideration, installment agreement, hardship CNC, etc.).

**Effect on other documents**

TAS will incorporate this guidance into the next revision of IRM 13.1.24, **Advocating for Case Resolution**.

**Contact**

If you have any questions, please contact Michael Kenyon, Deputy Executive Director of Case Advocacy, Technical Support, at (701) 237-8299.
Appendix A, Manual And Systemic Decertification of Taxpayer Debts Under the Passport Certification Program

Situations where the TC 972 AC 641 will not appear on ENMOD systemically, and will require manual decertification include:

- Penalty abatements under any basis except First Time Abate (e.g., not liable, IRS error, reasonable cause, etc.), which reduces (but does not fully satisfy) the taxpayer’s total unpaid assessments to $50,000 or lower (indexed annually for inflation, $51,000 in 2018).
- An amended return or audit/ASFR/SFR reconsideration reduces (but does not fully satisfy) the total unpaid assessments to $50,000 or lower (indexed annually for inflation, $51,000 in 2018).
- The certification was erroneous and correction of the error does not result in the systemic posting of TC 972 AC 641 on ENMOD.
- If mirroring activity will result the requesting spouse being eligible for decertification, verify the mirroring triggers the systemic decertification on the requesting spouse’s ENMOD. If it doesn’t, advocate for the Passport Analyst to manually decertify the requesting spouse.
- Preparer misconduct cases that are adjusted to reduce (but not fully satisfy) the total unpaid assessments to $50,000 or lower (indexed annually for inflation, $51,000 in 2018).

Situations where the TC 972 AC 641 and the CP 508R will appear on ENMOD systemically (no manual decertification needed) include:

- Taxpayer makes a payment large enough to put all the certified modules into collection status 12.
- The entire unpaid assessment on all certified modules becomes unenforceable due to expiration of the CSED.
- All certified modules are being timely paid under an IA (unreversed TC 971 AC 063), or all certified modules have a posted TC 971 AC 043 pending IA indicator.
- All certified modules are in hardship currently not collectible status (posted TC 530 with a closing code of 24-32).
- All the certified modules have a pending OIC (unreversed TC 480) or an accepted OIC being timely paid (unreversed TC 780).
- An amended return, penalty abatement request, or audit/ASFR/SFR reconsideration eliminates balance owed on all certified modules (putting them in collection status 12).
- All certified modules are due to identity theft (unreversed TC 971 AC 501, 505, 506, 522, 523, or 525).
- All certified modules have disaster zone freezes (-O or -S).
- All certified modules have a bankruptcy indicator (unreversed TC 520 cc 60-67, 81, or 83-89).
- All certified modules have a pending claim expected to result in no balance due (unreversed TC 470 cc 90).
- All certified modules are suspended due to a timely requested or pending CDP hearing (unreversed TC 520 cc 76 or 77).
- All certified modules have a pending innocent spouse claim (unreversed TC 971 AC 065).
NTA Blog: IRS Rolls out Passport Certification Program, Refusing to Adopt Taxpayer Protections and Exclude Taxpayers Working with TAS

On Jan. 25, 2018, the IRS began implementation of the passport certification program. IRC § 7345 authorizes the IRS to certify a taxpayer's seriously delinquent tax debt to the Department of State for the purposes of passport denial, limitation, or revocation. A seriously delinquent tax debt is an assessed, individual tax liability exceeding $51,000 for which either a notice of federal tax lien has been filed or a levy has been made. IRC § 7345(b)(2) provides exceptions for current installment agreements (CIAs), offers in compromise (OICs), and Collection Due Process (CDP) hearings. In addition, the IRS has created certification exclusions, such as for taxpayers in currently not collectible (CNC) hardship status and those with pending CIAs and OICs. IRM 5.19.1.5.19.4 includes the full list of current discretionary exclusions.

I have previously blogged about why providing notice to taxpayers prior to certifying their tax debts is so important and how the IRS's lack of notice will harm taxpayers. I also identified the IRS's planned procedures for implementing the passport certification program as one of the 20 Most Serious Problems encountered by taxpayers in my Annual Report to Congress.

The Most Serious Problem reiterates my prior concerns about lack of prior notice to taxpayers and the potential for this lack of notice to infringe on Constitutional due process protections. TAS research estimates that over three-quarters of the individual taxpayers potentially eligible to be certified will not have received any notice at all prior to certification because they received their CDP notices prior to the IRS including passport information in these notices. The Most Serious Problem also discusses how even though the Department of State will delay denying a passport application for 90 days for a certified taxpayer, this may not provide enough time for taxpayers to resolve their tax liabilities and have their certifications transmitted to and processed by the Department of State. I also discuss the lack of information about important taxpayer rights in passport correspondence, such as the IRS certification notice informing taxpayers about the exception for humanitarian or emergency travel and the Department of State passport ‘hold’ letter not including information about the right to seek assistance from TAS.

This brings us to one of the major issues on which I focused in the Most Serious Problem and in TAS's advocacy work outside of the Annual Report: the IRS's refusal to exclude from certification taxpayers with already open TAS cases. The IRS has significant discretion to provide certification exclusions, and the Commissioner has exercised this discretion. The passport certification program was intended to assist the IRS with difficult to collect, unpaid tax debts. For taxpayers who are actively working with the TAS to resolve their debts, it is unclear what purpose is served by certifying their tax debts. One of the statutory functions of TAS is to assist taxpayers who are experiencing significant hardship in resolving problems with the IRS. TAS accepts cases only from taxpayers who meet TAS case criteria (per IRC § 7811 and the regulations thereunder) and keeps cases open only if taxpayers are working with us to achieve a resolution. If TAS can get the taxpayer into compliance and resolve the taxpayer's issues with the IRS, then the purpose of IRC § 7345 has been satisfied. If TAS is unable to resolve the taxpayer's account, then when TAS closes its case the IRS can certify the account if it still qualifies as a seriously delinquent tax debt. Of the approximately 4,200...
issues, TAS closed 70 percent of these cases (approximately 2,700) with full or partial relief.

The Most Serious Problem discusses how the IRS has ignored the legislative history of the passport provisions, which reflects Congress's intent that taxpayers not be certified until their administrative rights have been exhausted or lapse. In addition, the IRS also ignores its own guiding principles when it refuses to exclude already open TAS cases. IRS Policy Statement 5-1 provides that the Service is responsible for taking all appropriate actions provided by law to compel non-compliant taxpayers to file their returns and pay their taxes. Policy Statement 5-2 states that the Service is committed to educating and assisting taxpayers who make a good faith effort to comply. When a taxpayer voluntarily comes to TAS for assistance with a tax issue before the account has been certified for passport denial or revocation, the taxpayer is making a good faith effort to comply with the tax laws. Furthermore, through the process of working with taxpayers, TAS educates them so they remain in compliance.

As discussed above, the statutory exemptions to certification reflect congressional intent to exclude from certification those taxpayers who are attempting to come into compliance and satisfy their debts, including taxpayers who are contesting their liability or paying via an IA or OIC. In accordance with legislative intent, the Commissioner has exercised his administrative discretion to further exclude from certification taxpayers with a pending IA or OIC and claims that would result in an IRS balance due. Yet inexplicably, the IRS has refused to exclude taxpayers who have come to TAS for help resolving their tax debts, either because they have economic difficulties or because IRS processes have failed them. Certifying taxpayers who are already actively working with TAS to resolve their debts violates the taxpayers' right to a fair and just tax system and treats TAS taxpayers inconsistently from others who are trying to resolve their issues directly with the IRS. This, in essence, violates Congress's purpose in establishing the Office of the Taxpayer Advocate.

Because the IRS has denied my office's repeated requests for it to exclude already open TAS cases from certification, I have taken action to protect these taxpayers. As of Jan. 11, 2018, TAS identified almost 800 taxpayers with assessed, unpaid federal tax debt over $51,000, who have an open case in TAS, and who do not otherwise meet an exception or exclusion from certification. On Jan. 13, 2018, issued Taxpayer Assistance Orders (TAOs) for every one of these almost 800 taxpayers, ordering the IRS to certify their seriously delinquent tax debts to the Department of State. By operation of law, the IRS must refrain from certifying any of these taxpayers until these TAOs are rescinded or modified by the National Taxpayer Advocate, the IRS Commissioner, or IRS Deputy Commissioner under IRC § 7811(c).

For taxpayers who were already certified prior to seeking TAS assistance, I have issued interim guidance to TAS employees authorizing all taxpayer cases involving revocation, limitation, or denial of passport under section IRC § 7345 to be accepted under TAS Case Criteria 9 if they do not meet any of the other TAS Case Criteria. Under Criteria 9, TAS accepts cases when I have determined that a compelling public policy warrants assistance to an individual or group of taxpayers. Given the imminent, irreparable harm that taxpayers may face by the loss of their passports and the right to travel internationally, there is clearly a compelling public policy for assisting any taxpayer subject to passport certification.

I will continue to advocate for the IRS to exercise its significant discretion to exclude from passport certification all taxpayers with open TAS cases. TAS will also work diligently to assist taxpayers who have already been certified to resolve their tax liabilities and become decertified.

The views expressed in this blog are solely those of the National Taxpayer Advocate. The National Taxpayer Advocate is appointed by the Secretary of the Treasury and reports to the Commissioner of Internal Revenue. However, the National Taxpayer Advocate presents an independent taxpayer perspective that does not necessarily reflect the position of the IRS, the Treasury Department, or the Office of Management and Budget.

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April 19, 2018
What You Need to Know to Prevent Your Passport from Being Revoked by the IRS for Back Taxes a.k.a. Seriously Delinquent Tax Debt (and How to Get it Back)

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In the forty years that I have been helping clients with their tax problems, one question that comes up frequently is: "Can I be stopped at the airport if I owe back taxes?" The answer was always "highly unlikely." That has changed.

About two years ago, Congress, in its infinite wisdom, decided that the penalties and interest it was already charging taxpayers wasn't punishing enough to get them to pay up. So it passed the Fast Act which provided for the non-renewal or revocation of the passport of individuals who owe "seriously delinquent tax debt." The provision has lain dormant, but the IRS announced that it has begun enforcement as of January 2018. Although I had originally heard it would be rolling out slowly with more widespread enforcement, as time goes on, the latest rumors are 100,000 revocations per month.

So What is "Seriously Delinquent Tax Debt"?

"Seriously Delinquent Tax Debt" is tax debt which exceeds $51,000. Now you may have also seen the number $50,000. That was the original amount in the Fast Act, but it's indexed for inflation so the correct amount for 2018 is $51,000. It doesn't include FBAR penalties, but it does include all types of penalties and interest. It also only includes "assessed" amounts.

In addition to being over $51,000, the IRS must have already filed a Notice of Federal Tax Lien and you must have exhausted all of your rights under IRC Section 6320.

A tax levy has been issued.

Exceptions: Tax debt which meets any one of the following exceptions is not treated as seriously delinquent tax debt, and, therefore, not included in determining the threshold amount:

1. Tax debt for which there is a pending election for innocent spouse treatment under Section 6015 pending before the IRS;
2. Tax debt which is part of an occupied offer in compromise and for which payments are being made in a timely manner;
3. Tax debt which is being paid in a timely manner pursuant to an installment agreement accepted by the IRS;
4. Tax debt for which a collection due process hearing for a levy has been timely requested, and a timely request for an "equivalent hearing" will NOT prevent the tax debt from being seriously delinquent;
5. Tax debt that has been determined to be currently not collectible (CNC);
6. Tax debt of a taxpayer in bankruptcy;
7. Tax debt resulting from identity theft;
8. Tax debt that is included in a pending offer in compromise, but caution: if you don’t properly prepare your OIC, and it is not accepted for the purposes of delay, it will NOT stop the revocation of your passport;
9. Tax debt that is included in pending installment agreement;
10. Taxpayers in a disaster zone.
Determining the Amount Assessed

In order to determine whether an amount is assessed, you will need to obtain a copy of your record of account from the IRS by calling (800) 908-9948. You must be prepared if you spend an hour on hold. You may also obtain transcripts online. To register and use this service, you need:

- Your Social Security number, date of birth, filing status, and mailing address from your last tax return;
- Access to your email account;
- Your personal account number from a credit card, mortgage, home equity loan, home equity line of credit, or car loan, and;
- A mobile phone with your name on the account.

The record of account will be on a yearly-year basis. At the top of the record of account, there will be a total amount owed. That is NOT the amount assessed. You will need to subtract off the accrued penalties, and interest to arrive at the assessed amount. Then add up the total for each year or period to determine if you exceed the threshold. Do not rely on the amount stated in the IRS Notice of Federal Tax Lien because it may include accrued, but un-assessed amounts.

The Process

Once the tax debt has been determined to be "seriously delinquent," the IRS will certify the tax debt to the Secretary of State, who will then revoke the passport. The IRS will issue a Notice 4014 to the taxpayer at the time the debt is certified. It will be sent by regular mail, NOT certified mail, to your last known address. If you don't get it, good luck proving the IRS didn't send it. The IRS will notify the State Department on a weekly basis of the certifications.

If the time you have received the Notice 5090C it will be too late! It is more difficult to fix the problem once the tax debt has been certified, and there will be time delays in getting things fixed. However, under 26 U.S.C. § 2714a, the State Department may, notwithstanding a certification from the IRS, issue a U.S. passport to a taxpayer if the State Department determines emergency circumstances or humanitarian reasons justify issuance of the passport. In addition, the Secretary of State may limit a previously issued passport only for return travel to the United States, or issue a limited passport that only permits return travel to the United States.

According to Internal Revenue Manual Section 5.1.12.7.2(6) (12-20-2017), the Secretary of State will not revoke a passport for 60 days to allow the taxpayer time to clear up any certification issues. Unfortunately, that may not be enough time for the IRS to resolve the problem, and send the information to the Secretary of State.
Defenses to Certification:

1. The simplest way of dealing with the problem is to pay down the tax debt below $10,000. However, it is extremely important that the taxes be apportioned properly, or else your plan won't succeed. Review the example below for a better understanding of how this will work.

2. File a request for an offer in compromise, but keep in mind if you don't meet basic criteria it will be rejected quickly, and you will lose your defense. For example, if you are not in “current compliance” with your IRS filing and payment requirements, your offer will not be accepted for processing. Also, if you have previously had an offer rejected, the IRS may determine that the new request is filed solely for purposes of delay and, therefore, will not be an adequate defense to passport revocation.

3. Request an installment payment agreement. However, protection doesn't start until it is accepted by the IRS as “pending.” The IRS has detailed requirements for when they will treat a request for an installment agreement as “pending” within the meaning of those rules.

4. If you receive a Notice of Intent to Levy and Right to Request a Hearing, it’s critical that you file a written request for a hearing within the statutory 30-day deadline. Simply calling the IRS will NOT protect your rights. Having your accountant “work” with the IRS will NOT protect your rights. The written request is a must. If you are unable to come to an agreement with an IRS Appeals Officer, consider filing a Petition within the United States Tax Court. For your Petition to be successful, it is important that you document all of your interactions with the IRS Appeals Division. As a general matter, the Tax Court will only review information that you submitted to the Appeals Division, and will not consider new information that you later decide to submit to the Tax Court. If you can’t prove you gave the information to the IRS Appeals Division, you may lose your case. In our offices, we will take careful notes at the hearing to make sure we have an adequate record.

5. Request “innocent spouse” relief if you believe you may qualify. If you remain married, or if IRS collection from your former spouse could impact your alimony or child support keep in mind that filing for innocent spouse treatment won’t prevent your spouse’s passport from being revoked.

6. File for bankruptcy.
An Example of the Penalties of Not Properly Designating Payments to the IRS:

You owe the IRS a total of $35,000. This consists of a 2012 tax of $25,000 of which $5,000 is tax, and $5,000 is interest; in addition there is a penalty. This is not unusual for someone who has been skipping away at a tax debt for several years. For 2014, the balance due is $10,000 consisting of $45,000 in tax, and $15,000 interest and penalties all of which has been assessed. The first thought is to send the IRS $35,000 if you can pay, but not all. That’s not necessary.

The assessed balance is only $35,000 and, therefore, a $15,000 payment should suffice. However, if you simply send the IRS $15,000 that won’t work! The IRS generally audits taxpayers to the nearest tax year first. So what will happen is that it will be applied to the first year that 2014 tax due plus $10,000 in unassessed interest and penalty.

When the dust clears, you will owe $60,000 consisting of $60,000 of assessed 2015 liability, and $10,000 of unassessed 2014 interest and penalty. You will have wasted $15,000 because you are still going to have your payment rejected because you fall within the definition of seriously delinquent tax debt.

On the other hand, for IRS is required to apply voluntary payments in the manner you tell them. So if you designate the payments in 2015 taxes you will still owe $10,000. If the amount of assessed taxes, interest, and penalty will be $30,000 consisting of the balance of $45,000 in 2015 and $15,000 assessed tax for 2017. Problem solved!

Challenging IRS Certification: What Happens If You Believe That the IRS Has Made a Mistake in Certifying Your Tax Debt?

You May Have to Bring a Lawsuit

Although you can speak to the IRS, there is no Appeals Division review of IRS audits. Collection Dispute Rights don’t apply, for use GAP (Collection Appeals Program) rules available. The Taxpayer Advocate may take on your case, but there is no telling what the outcome will be.

Internal Revenue Code Section 7455(e) allows a taxpayer to bring suit in the U.S. Tax Court or the U.S. District Court to determine whether the certification was erroneous or whether the Commissioner has failed to reverse this certification. If the court determines that such certification was erroneous, then the court may order the IRS to notify the Secretary of State that such certification was erroneous. The Tax Court has not yet adopted rules for filing a Petition. But in 2016, the Court issued proposed rules covering this issue which closely track the Tax Court rules for other types of actions.

Important issues will need to be litigated as to what will constitute an erroneous certification. For example, pending installment agreements are not mentioned in the statute. However, IRS guidance proves that tax debt subject to pending installment agreements will remove it from the category of seriously delinquent tax debt if the IRS determines that a request for an installment agreement is not pending because it was filed for the purpose of delaying, will that be treated as an erroneous certification?
Obtaining Decertification AFTER the IRS Certified the Tax Debt as Seriously Delinquent!

Some of the actions which will result in decertification:

- The debt is classified as currently not collectible (CNC) due to hardship
- You file for bankruptcy
- You pay the seriously delinquent tax debt in full. Payments which reduce the tax debt below the certification threshold will not result in decertification!
- You file a request for an offer in compromise (OIC), or
- You request an installment agreement which is classified as "pending"
- The IRS reduces the amount of tax due. This is NOT the same as paying off a portion of the tax. One example the IRS gives is if a penalty is eliminated for reasonable cause and that brings the assessed tax debt down below the threshold. However, the IRS cannot do that reduction in the penalty due to a penalty statement based on an administrative waiver under the First Time Attraction criteria in IRM 20.1.1.5.i.2.1 will NOT result in decertification, even if the adjusted total liability is less than the threshold amount.

How Long Will it Take to Get My Passport Back?

Don't Plan Any Trips Next Month.

IRS guidelines provide that in some situations, it will decertify the tax debt within 30 days. In other situations, it will do so "as soon as possible." Who knows what that means in this era of reduced IRS budget, but presumably more than 30 days. Even if the debt is decertified within 30 days, that doesn't mean that you will have your passport back that quickly.

According to a report by the Taxpayer Advocate's Service, the State Department may take up to 45 days from the time it receives the decertification from the IRS to reflect the information in its computer systems.

The IRS does provide a procedure for expedited decertification. However, IRS employees are not supposed to tell you about it. You may qualify if:

- Your foreign travel is scheduled within 45 days of the IRS letter
- You have a pending application for a passport or renewal and can provide your passport number

You may also qualify for expedited decertification if you are currently overseas, but you inform the IRS that you have an "urgent need" for decertification.

If you are at risk of losing your passport and you would like to discuss all of your options, call my office at (310) 208-8200 to schedule an appointment. All conversations with our office are protected by attorney-client privilege.
Success! Your fax has been sent.

Your fax has been sent to +12022618579. You can see your fax anytime by clicking View on HelloFax.

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Date: March 7, 2018

To: U.S. Department of State
   Office of Information Programs and Services

Fax No.: (202) 261-8579

Subject: FOIA Request
         Fec Waiver Requested

Sender: Dennis Brager

Comments:
March 7, 2018

SENT VIA FAX ONLY: (202) 261-8579

U.S. Department of State
Office of Information Programs and Services
A/GIS/IP/RL
SA-2, Suite 8100
Washington, D.C. 20522-0208

Re: FOIA REQUEST
Fee Waiver Requested

Dear FOIA Officer:

Brager Tax Law Group, A.P.C. is the owner of Tax Problem Attorney Blog, www.taxproblemattorneyblog.com, a publisher of news regarding taxation issues. Pursuant to the Freedom of Information Act ("FOIA"); 5 U.S.C., § 552, Tax Problem Attorney Blog hereby requests copies of the following records:

All documents relating to the processing of certifications and reversals of certifications sent to the Secretary of State by the Internal Revenue Service pursuant to 26 U.S.C [Internal Revenue Code] Section 7345 including, but not limited to any training materials, instructions, memorandums and procedures."

26 U.S.C. § 7345(a) provides that:
If the Secretary of the Treasury receives certification by the Commissioner of Internal Revenue that an individual has a seriously delinquent tax debt, the Secretary of the Treasury shall transmit such certification to the Secretary of State for action with respect to denial, revocation, or limitation of a passport pursuant to section 210 of the FAST Act.
26 U.S.C. § 7345(c) provides:
(c) Reversal of certification
(1) In general
In the case of an individual with respect to whom the Commissioner of the Internal Revenue makes a certification under subsection (a), the Commissioner shall notify the Secretary of the Treasury and the Secretary of the Treasury shall notify the Department of State.

11400 W. Olympic Blvd., Suite 750, Los Angeles, CA 90064
The above references to "documents" includes all information stored electronically, including, but not limited to all email and attachments; word processing documents, spreadsheets, graphics and presentation documents, images/text files, and other information stored on hard drives or removable media (e.g., desktops and portable thumbdrives), metadata, databases, instant messages, transaction logs, audio and video files, voicemail, web pages, computer logs, text messages, and backup and archived material. It also includes any software which will run on a computer running the Windows operating system.

Fee Waiver Request:

Tax Problem Attorney Blog is gathering information on a matter of public interest, namely, Secretary of State procedures and guidance on certifications to the Secretary of State under the Internal Revenue Code. The records covered by this request are being sought for dissemination to the general public, both in written and electronic form, through the Tax Problem Attorney Blog and possibly other periodicals published by the Brazer Tax Law Group, A P.C.

We ask that you please waive any applicable fees. Release of the information is in the public interest because it will contribute significantly to public understanding of IRS and Secretary of State operations and activities, as indicated above. Tax Problem Attorney Blog and our other publications have a history of covering the IRS, resulting to significant awareness of how government functions.

If this request is denied in whole or part, we ask that you justify all deletions by reference to specific exemptions of the Act. In addition, we expect that the Secretary will release all aggregable portions of otherwise exempt material or information.

[ Treasury shall subsequently notify the Secretary of State if such certification is found to be erroneous or if the debt with respect to such certification is fully satisfied or remitted to be a seriously delinquent tax debt by reason of subsection (f)(2).]
Request for Expedited Processing:

We request expedited processing on the grounds that there is an immediate public need to have access to this information. The IRS has publicly stated that it is beginning to certify taxpayers to the Secretary of State for passport revocation. According to the Taxpayer Advocate for the Internal Revenue Service approximately 270,000 taxpayers are at risk for having their passport revoked. https://taxpayeradvocate.irs.gov/Media/Default/Documents/2017-ARC/ARC17_Volume1_MSP_06_PassportDenial.pdf See text at footnote 3.

We request that all documents be furnished on a USB drive.

Thank you for your assistance and we look forward to hearing from you.

Sincerely,

[Signature]

Dennis Brager

DRay
26 U.S. Code § 7345 - Revocation or denial of passport in case of certain tax delinquencies

(a) IN GENERAL
If the Secretary receives certification by the Commissioner of Internal Revenue that an individual has a seriously delinquent tax debt, the Secretary shall transmit such certification to the Secretary of State for action with respect to denial, revocation, or limitation of a passport pursuant to section 32101 of the FAST Act.

(b) SERIOUSLY DELINQUENT TAX DEBT
(1) IN GENERAL For purposes of this section, the term "seriously delinquent tax debt" means an unpaid, legally enforceable Federal tax liability of an individual—
    (A) which has been assessed,
    (B) which is greater than $50,000, and
    (C) with respect to which—
        (i) a notice of lien has been filed pursuant to section 6323 and the administrative rights under section 6320 with respect to such filing have been exhausted or have lapsed, or
        (ii) a levy is made pursuant to section 6331.

(2) EXCEPTIONS Such term shall not include—
    (A) a debt that is being paid in a timely manner pursuant to an agreement to which the individual is party under section 6159 or 7122, and
    (B) a debt with respect to which collection is suspended with respect to the individual—
        (i) because a due process hearing under section 6330 is requested or pending, or
        (ii) because an election under subsection (b) or (c) of section 6015 is made or relief under subsection (f) of such section is requested.

(c) REVERSAL OF CERTIFICATION
(1) IN GENERAL
In the case of an individual with respect to whom the Commissioner makes a certification under subsection (a), the Commissioner shall notify the Secretary (and the Secretary shall subsequently notify the Secretary of State) if such certification is found to be erroneous or if the debt with respect to such certification is fully satisfied or ceases to be a seriously delinquent tax debt by reason of subsection (b)(2).

(2) TIMING OF NOTICE
    (A) Full satisfaction of debt
In the case of a debt that has been fully satisfied or has become legally unenforceable, such notification shall be made not later than the date required for issuing the certificate of release of lien with respect to such debt under section 6325(a).

(B) Innocent spouse relief
In the case of an individual who makes an election under subsection (b) or (c) of section 6015, or requests relief under subsection (f) of such section, such notification shall be made not later than 30 days after any such election or request.

(C) Installment agreement or offer-in-compromise
In the case of an installment agreement under section 6159 or an offer-in-compromise under section 7122, such notification shall be made not later than 30 days after such agreement is entered into or such offer is accepted by the Secretary.

(D) Erroneous certification
In the case of a certification found to be erroneous, such notification shall be made as soon as practicable after such finding.

d) Contemporaneous notice to individual.
The Commissioner shall contemporaneously notify an individual of any certification under subsection (a), or any reversal of certification under subsection (c), with respect to such individual. Such notice shall include a description in simple and nontechnical terms of the right to bring a civil action under subsection (e).

(e) Judicial review of certification

(1) In general
After the Commissioner notifies an individual under subsection (d), the taxpayer may bring a civil action against the United States in a district court of the United States or the Tax Court to determine whether the certification was erroneous or whether the Commissioner has failed to reverse the certification.

(2) Determination
If the court determines that such certification was erroneous, then the court may order the Secretary to notify the Secretary of State that such certification was erroneous.

(f) Adjustment for inflation
In the case of a calendar year beginning after 2015, the dollar amount in subsection (a) shall be increased by an amount equal to—

(1) such dollar amount, multiplied by

(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting "calendar year 2015" for "calendar year 2016" in subparagraph (A)(ii) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000.

(g) Delegation of certification
A certification under subsection (a) or reversal of certification under subsection (c) may only be delegated by the Commissioner of Internal Revenue to the Deputy Commissioner for Services and Enforcement, or the Commissioner of an operating division, of the Internal Revenue Service.

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SEC. 32101. <NOTE: 22 USC 2714a.>> REVOCATION OR DENIAL OF PASSPORT IN CASE OF CERTAIN UNPAID TAXES.

(a) In General.--Subchapter D of chapter 75 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

SEC. 7345. <<NOTE: 26 USC 7345 note.>> REVOCATION OR DENIAL OF PASSPORT IN CASE OF CERTAIN TAX DELINQUENCIES.

(a) In General.--If the Secretary receives certification by the Commissioner of Internal Revenue that an individual has a seriously delinquent tax debt, the Secretary shall transmit such certification to the Secretary of State for action with respect to denial, revocation, or limitation of a passport pursuant to section 32101 of the FAST Act.

(b) Seriously Delinquent Tax Debt.--

(1) In general.--For purposes of this section, the term seriously delinquent tax debt means an unpaid, legally enforceable federal tax liability of an individual--

(A) which has been assessed,

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(B) which is greater than $50,000, and

(C) with respect to which--

(i) a notice of lien has been filed pursuant to section 6323 and the administrative rights under section 6328 with respect to such filing have been exhausted or have lapsed, or

(ii) a levy is made pursuant to section 6331.

(2) Exceptions.--Such term shall not include--

(A) a debt that is being paid in a timely manner pursuant to an agreement to which the individual is a party under section 6159 or 7122, and

(B) a debt with respect to which collection is suspended with respect to the individual--

(i) because a due process hearing under section 6330 is requested or pending, or

(ii) because an election under subsection (b) or (c) of section 6615 is made or relief under subsection (f) of such section is requested.

(c) Reversal of Certification.--

(1) In general.--In the case of an individual with respect to whom the Commissioner makes a certification under subsection (a), the Commissioner shall notify the Secretary (and the Secretary shall subsequently notify the Secretary of State) if such certification is found to be erroneous or if the debt with respect to such certification is fully satisfied or ceases to be a seriously delinquent tax debt by reason of subsection (b)(2).

(2) Timing of notice.--

(A) Full satisfaction of debt.--In the case of a debt that has been fully satisfied or has become legally unenforceable, such notification shall be made not later than the date required for issuing the certificate of release of lien with respect to such debt under section 6325(a).

(B) Innocent spouse relief.--In the case of an individual who makes an election under subsection (b) or (c) of section 6615, or requests relief under subsection (f) of such section, such notification shall be made not later than 30 days after any such election or request.

(C) Installment agreement or offer-in-compromise.--In the case of an installment agreement under section 6159 or an offer-in-compromise under section 7122, such notification shall be made not later than 30 days after such agreement is entered into or such offer is accepted by the Secretary.

(D) Erroneous certification.--In the case of a certification found to be erroneous, such notification shall be made as soon as practicable after such finding.

(e) Judicial Review of Certification.—
(1) In general.—After the Commissioner notifies an individual under subsection (b), the taxpayer may bring a civil action against the United States in a district court of the United States or the Tax Court to determine whether the certification was erroneous or whether the Commissioner has failed to reverse the certification.
(2) Determination.—If the court determines that such certification was erroneous, then the court may order the Secretary to notify the Secretary of State that such certification was erroneous.

(f) Adjustment for Inflation.—In the case of a calendar year
beginning after 2016, the dollar amount in subsection (a) shall be increased by an amount equal to—

(1) such dollar amount, multiplied by

(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2035' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000.

(g) Delegation of Certification.—A certification under subsection (a) or reversal of certification under subsection (c) may only be delegated by the Commissioner of Internal Revenue to the Deputy Commissioner for Services and Enforcement, or the Commissioner of an operating division, of the Internal Revenue Service.

(b) Information Included in Notice of Levy—

(1) Notice of Levy.—Section 6320(a)(3) of such Code is amended by striking and inserting 'and', and by adding at the end the following new subparagraph:

'(E) the provisions of section 7345 relating to the certification of seriously delinquent tax debts and the denial, revocation, or limitation of passports of individuals with such debts pursuant to section 32101 of the FAST Act.'.

(2) Notice of Levy.—Section 6331(c)(4) of such Code is amended by striking and inserting 'and', and by adding at the end the following new subparagraph:

'(G) the provisions of section 7345 relating to the certification of seriously delinquent tax debts and the denial, revocation, or limitation of passports of individuals with such debts pursuant to section 32101 of the FAST Act.'.

(c) Authority for Information Sharing—

(1) In general.—Section 6103(k) of such Code is amended by adding at the end the following new paragraph:

'(II) Disclosure of return information to department of state for purposes of passport revocation under section 7345.—

(A) In general.—The Secretary shall, upon receiving a certification described in section 7345, disclose to the Secretary of State return information with respect to a taxpayer who has a seriously delinquent tax debt described in such section. Such return information shall be limited to—

365/424
(ii) The taxpayer identity information with respect to such taxpayer, and

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"(ii) the amount of such seriously delinquent tax debt.

(B) Restriction on disclosure.--Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of State for the purposes of, and to the extent necessary in, carrying out the requirements of section 321B1 of the FAST Act.

(2) Conforming amendment.--Paragraph (A) of section 6103(p) of such Code (<NOTE: 26 USC 6103.> is amended by striking "or" (1B)"' each place it appears in subparagraph (F)(ii) and in the matter preceding subparagraph (A) and inserting "or" (1B)", (1B), or (11)."

(d) Time for Certification of Seriously Delinquent Tax Debt Postponed by Reason of Service in Combat Zone.--Section 7345(a) of such Code (<NOTE: 26 USC 7345.> is amended by striking the period at the end of paragraph (2) and inserting "and" by adding at the end the following new paragraph:

(3) Any certification of a seriously delinquent tax debt under section 7345.

(e) Authority to Deny or Revoke Passport.--

(1) Denial.--

(A) In general.--Except as provided under subparagraph (B), upon receiving a certification described in section 7345 of the Internal Revenue Code of 1986 from the Secretary of the Treasury, the Secretary of State shall not issue a passport to any individual who has a seriously delinquent tax debt described in such section.

(B) Emergency and humanitarian situations.--Notwithstanding subparagraph (A), the Secretary of State may issue a passport, in emergency circumstances or for humanitarian reasons, to an individual described in such subparagraph.

(2) Revocation.--

(A) In general.--The Secretary of State may revoke a passport previously issued to any individual described in paragraph (1)(A).

(B) Limitation for return to United States.--If the Secretary of State decides to revoke a passport under subparagraph (A), the Secretary of State, before revocation, may--

(i) limit a previously issued passport only for return travel to the United States; or

(ii) issue a limited passport that only permits return travel to the United States.

(C) Hold harmless.--The Secretary of the Treasury, the Secretary of State, and any of their designees shall not be liable to an individual for any action with respect to a certification by the Commissioner of Internal Revenue under section 7345 of the Internal Revenue Code of 1986.

(f) Revocation or Denial of Passport in Case of Individual Without Social Security Account Number.--

(1) Denial.--

(A) In general.--Except as provided under subparagraph (B), upon receiving an application for a passport from an individual that either--

(i) does not include the social security account number issued to that individual, or

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(ii) includes an incorrect or invalid social security number willfully, intentionally, negligently, or recklessly provided by such
individual,
the Secretary of State is authorized to deny such
application and is authorized to not issue a passport to
the individual.

(B) Emergency and humanitarian situations.--
Notwithstanding subparagraph (A), the Secretary of State
may issue a passport, in emergency circumstances or for
humanitarian reasons, to an individual described in
subparagraph (A).

(2) Revocation.--

(A) In general.--The Secretary of State may revoke a
passport previously issued to any individual described in
paragraph (1)(A).

(B) Limitation for return to United States.--If the
Secretary of State decides to revoke a passport under
subparagraph (A), the Secretary of State, before
revocation, may--

(i) limit a previously issued passport only for
return travel to the United States; or

(ii) issue a limited passport that only
permits return travel to the United States.

(g) Removal of Certification From Record When Debt Ceases to Be
Seriously Delinquent.--If pursuant to subsection (c) or (e) of section
7345 of the Internal Revenue Code of 1986 the Secretary of State
receives from the Secretary of the Treasury a notice that an individual
ceases to have a seriously delinquent tax debt, the Secretary of State
shall remove from the individual's record the certification with respect
to such debt.

(h) Clerical Amendment.--The table of sections for subchapter D of
chapter 75 of the Internal Revenue Code of 1986 <<NOTE: 26 USC proc.
7341 >> is amended by adding at the end the following new item:

' 'Sec. 7345. Revocation or denial of passport in case of certain tax
delinquencies.' '

(i) Effective Date.--The provisions of, and amendments made by, this
section shall take effect on the date of the enactment of this Act.

SEC. 32102. REFORM OF RULES RELATING TO QUALIFIED TAX COLLECTION
CONTRACTS.

(a) Requirement To Collect Certain Inactive Tax Receivables Under
Qualified Tax Collection Contracts.--Section 6306 of the Internal
Revenue Code of 1986 <<NOTE: 26 USC 6306 >> is amended by redesignating
subsections (c) through (f) as subsections (d) through (g),
respectively, and by inserting after subsection (b) the following new
subsection:

(c) Collection of Inactive Tax Receivables.--

(1) In general.--Notwithstanding any other provision of
law, the Secretary shall enter into one or more qualified tax
collection contracts for the collection of all outstanding
inactive tax receivables.

(2) Inactive tax receivables.--For purposes of this
section--

(A) In general.--The term 'inactive tax
receivable' means any tax receivable if--

[[Page 129 STAT. 1734]]

(i) at any time after assessment, the
Internal Revenue Service removes such receivable
from the active inventory for lack of resources or
inability to locate the taxpayer;

(ii) more than 1/4 of the period of the
applicable statute of limitation has lapsed and
such receivable has not been assigned for
collection to any employee of the Internal Revenue
Service, or

(iii) in the case of a receivable which has
been assigned for collection, more than 365 days
have passed without interaction with the taxpayer
or a third party for purposes of furthering the

FIXING AMERICA'S SURFACE TRANSPORTATION ACT

An Act

To authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes. <NOTE: Dec. 4, 2015 - [H.R. 22]>

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, <NOTE: Fixing America's Surface Transportation Act. 23 USC 101 note.> SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title. - This Act may be cited as the "Fixing America's Surface Transportation Act" or the "FAST Act".
(b) Table of Contents. - The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

DIVISION A---SURFACE TRANSPORTATION
TITLE I--FEDERAL- AID HIGHWAYS

Subtitle A--Authorizations and Programs

Sec. 1101. Authorization of appropriations.
Sec. 1102. Obligation ceiling.
Sec. 1103. Definitions.
Sec. 1104. Apportionment.
Sec. 1105. Nationally significant freight and highway projects.
Sec. 1106. National highway performance program.
Sec. 1107. Emergency relief for federally owned roads.
Sec. 1108. Railway-highway grade crossings.
Sec. 1109. Surface transportation block grant program.
Sec. 1110. Highway use tax evasion projects.
Sec. 1111. Bundling of bridge projects.
Sec. 1112. Construction of ferry boats and ferry terminal facilities.
Sec. 1113. Highway safety improvement program.
Sec. 1114. Congestion mitigation and air quality improvement program.
Sec. 1115. Territorial and Puerto Rico highway program.
Sec. 1116. National highway freight program.
Sec. 1117. Federal lands and tribal transportation programs.
Sec. 1118. Tribal transportation program amendment.
Sec. 1119. Federal lands transportation program.
Sec. 1120. Federal lands programmatic activities.
Sec. 1121. Tribal transportation self-governance program.
Sec. 1122. State flexibility for National Highway System modifications.
Sec. 1123. Nationally significant Federal lands and tribal projects program.

Subtitle B--Planning and Performance Management

Sec. 1201. Metropolitan transportation planning.
Sec. 1202. Statewide and nonmetropolitan transportation planning.

Subtitle C--Acceleration of Project Delivery

Sec. 1301. Satisfaction of requirements for certain historic sites.

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Sec. 1302. Clarification of transportation environmental authorities.
Sec. 1303. Treatment of certain bridges under preservation requirements.
Sec. 1304. Efficient environmental reviews for project decisionmaking.
Sec. 1305. Integration of planning and environmental review.
Sec. 1306. Development of programmatic mitigation plans.
Sec. 1307. Technical assistance for States.
Sec. 1308. Surface transportation project delivery program.
Sec. 1309. Program for eliminating duplication of environmental reviews.
Sec. 1310. Application of categorical exclusions for multimodal projects.
Sec. 1311. Accelerated decisionmaking in environmental reviews.
Sec. 1312. Improving State and Federal agency engagement in environmental reviews.
Sec. 1313. Aligning Federal environmental reviews.
Sec. 1314. Categorical exclusion for projects of limited Federal assistance.
Sec. 1315. Programmatic agreement template.
Sec. 1316. Assumption of authorities.
Sec. 1317. Modernization of the environmental review process.
Sec. 1318. Assessment of progress on accelerating project delivery.

Subtitle D--Miscellaneous

Sec. 1401. Prohibition on the use of funds for automated traffic enforcement.
Sec. 1402. Highway Trust Fund transparency and accountability.
Sec. 1403. Additional deposits into Highway Trust Fund.
Sec. 1404. Design standards.
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DIVISION A--SURFACE TRANSPORTATION

SEC. 1001. \( <<NOTE: 23 USC 101 notes>> DEFINITIONS. \)

In this division, the following definitions apply: (1) Department.--The term 'Department' means the Department of Transportation. (2) Secretary.--The term 'Secretary' means the Secretary of Transportation.

SEC. 1002. RECONCILIATION OF FUNDS.

The Secretary shall reduce the amount apportioned or allocated for a program, project, or activity under titles I and VI of this Act in fiscal year 2016 by amounts apportioned or allocated pursuant to any extension Act of MAP-21, including the amendments made by that extension Act, during the period beginning on October 1, 2015, and ending on the date of enactment of this Act. For purposes of making such reductions, funds set aside pursuant to section 133(h) of title 23, United States Code, as amended by

\( [[Page 129 STAT. 1332]] \)

this Act, shall be reduced by the amount set aside pursuant to section 213 of such title, as in effect on the day before the date of enactment of this Act.

SEC. 1003. \( <<NOTE: 5 USC 5113 notes>> EFFECTIVE DATE. \)

Except as otherwise provided, this division, including the amendments made by this division, takes effect on October 1, 2015.

SEC. 1004. \( <<NOTE: 1 USC 1 note>> REFERENCES. \)

Except as expressly provided otherwise, any reference to 'this Act' contained in this division shall be treated as referring only to
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Sec. 3102. Extension of highway-related taxes.
Subtitle B—Additional Transfers to Highway Trust Fund
Sec. 3201. Further additional transfers to trust fund.
Sec. 3202. Transfer to Highway Trust Fund of motor vehicle safety penalties.
Sec. 3203. Appropriation from Leaking Underground Storage Tank Trust Fund

TITLE XXXII—OPSETS

Sec. 32101. Repeal or delay of payment in case of certain unpaid taxes.
Sec. 32102. Reform of rules relating to refunds of tax collection interest.
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Subtitle C—Outlays
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Sec. 33001. Budgetary effects.

DIVISION D—MISCELLANEOUS

TITLE XLII—FEDERAL PERMITTING IMPROVEMENT
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Sec. 41003. Permitting process improvement.
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DIVISION E—EXPORT IMPORT BANK OF THE UNITED STATES
Sec. 51001. Short title.

TITLE II—TAXPAYER PROTECTION PROVISIONS AND INCREASED ACCOUNTABILITY
Sec. 51001. Reduction in audited amount of outstanding loans, guarantees, and insurance.
Sec. 51002. Interest or loss reserves.
Sec. 51003. Increase of trust control.
Sec. 51004. Ombudsman.
Sec. 51005. Chief Risk Officer.
Sec. 51006. New Management Committee.
Sec. 51007. Independent audit of loan portfolio.
H. R. 22—418

"The Covered Motor Vehicle Safety Penalty Collections.—For purposes of this subparagraph, the term 'covered motor vehicle safety penalty collections' means any amount collected in connection with a civil penalty under section 30165 of title 49, United States Code, reduced by any award authorized by the Secretary of Transportation to be paid to any person in connection with information provided by such person related to a violation of chapter 301 of such title which is a predicate to such civil penalty.

(b) Effective Date.—The amendments made by this section shall apply to amounts collected after the date of the enactment of this Act.

SEC. 31206. APPROPRIATION FROM LEAKING UNDERGROUND STOR-A GE TANK TRUST FUND.

(a) IN GENERAL.—Subsection (c) of section 9503 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(3) ADDITIONAL TRANSFER TO HIGHWAY TRUST FUND.—Out of amounts in the leaking underground storage tank trust fund there is hereby appropriated—

(A) on the date of the enactment of the FAST Act, $700,000,000,

(B) on October 1, 2016, $100,000,000, and

(C) on October 1, 2017, $100,000,000,

for amounts in the leaking underground storage tank trust fund to be transferred under section 9503(c)(2) to the highway account (as defined in section 9503(c)(3) in the highway trust fund.

(b) CONFORMING AMENDMENT.—Section 9508(c)(1) of the Internal Revenue Code of 1986 is amended by striking "paragraphs 12 and 13" and inserting "paragraphs 12, 13, and 14.""

TITLE XXXII—OFFSETS


SEC. 32101. REVOCATION OR DENIAL OF PASSPORT IN CASE OF CERTAIN UNPAID TAXES.

(a) IN GENERAL.—Subchapter D of chapter 75 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 32101. REVOCATION OR DENIAL OF PASSPORT IN CASE OF CERTAIN UNPAID TAXES.

"(a) In General.—If the Secretary receives certification by the Commissioner of Internal Revenue that an individual has a seriously delinquent tax debt, the Secretary shall transmit such certification to the Secretary of State for action with respect to denial, revocation, or limitation of a passport pursuant to section 32101 of the FAST Act.

"(b) Seriously Delinquent Tax Debt.—

"(1) In General.—For purposes of this section, the term 'seriously delinquent tax debt' means an unpaid, legally enforceable Federal tax liability of an individual—

"(A) which has been assessed."
(B) which is greater than $50,000, and
(C) with respect to which—
(i) a notice of lien has been filed pursuant to section 6321 and the administrative rights under section 6320 with respect to such filing have been exhausted or have lapsed, or
(ii) a levy is made pursuant to section 6331.
(2) EXCEPTION.—Such levy shall not include—
(A) a debt that is being paid in a timely manner pursuant to an agreement to which the individual is a party under section 6302 or 7122, and
(B) a debt with respect to which collection is suspended with respect to the individual—
(i) because a due process hearing under section 6330 is requested or pending, or
(ii) becomes an election under subsection (b) or (c) of section 6653 to make or relief under subsection (c) of such section is requested.
(3) REVERSAL OF CERTIFICATION.—
(I) IN GENERAL.—In the case of an individual with respect to whom the Commissioner makes a certification under subsection (a), the Commissioner shall notify the Secretary and the Secretary shall subsequently notify the Secretary of State of such certification is found to be erroneous or if the debt with respect to such certification is fully satisfied or comes to be a seriously delinquent tax debt by reason of subsection (b)(2).
(2) TIMING OF NOTICE.—
(A) FULL SATISFACTION OR DEBT.—In the case of a debt that has been fully satisfied or has become legally unenforceable, such notification shall be made not later than the date required for issuing the certificate of release of lien with respect to such debt under section 6320(a).
(B) INNOCENT SPOUSE RELIEF.—In the case of an individual who makes an election under subsection (b) or (c) of section 6653, or requests relief under subsection (c) of such section, such notification shall be made not later than 30 days after any such election or request.
(C) INSTALLMENT AGREEMENT OR OFFER-IN-COMPROMISE.—In the case of an installment agreement under section 6159 or an offer-in-compromise under section 7122, such notification shall be made not later than 30 days after such agreement is entered into or such offer is accepted by the Secretary.
(D) ERRONEOUS CERTIFICATION.—In the case of a certification found to be erroneous, such notification shall be made as soon as practicable after such finding.
(3) CONTEMPORANEOUS NOTICE TO INDIVIDUAL.—The Commissioner shall contemporaneously notify an individual of any certification under subsection (a), or any reversal of certification under subsection (c), with respect to such individual. Such notice shall include a description in simple and nontechnical terms of the right to bring a civil action under subsection (e).
(4) JUDICIAL REVIEW OF CERTIFICATION.—
(I) IN GENERAL.—After the Commissioner notifies an individual under subsection (a), the taxpayer may bring a civil action against the United States in a district court of the
United States or the Tax Court to determine whether the certification was erroneous or whether the Commissioner has failed to reverse the certification.

(2) Determination.—If the court determines that such certification was erroneous, then the court may order the Secretary to notify the Secretary of State that such certification was erroneous.

(3) Adjustment for Inflation.—In the case of a calendar year beginning after 2018, the dollar amount in subsection (a) shall be increased by an amount equal to—

(1) such dollar amount, multiplied by—

(2) the cost-of-living adjustment determined under section 21030 for the calendar year, determined by substituting 'calendar year 2015' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000.

(4) Delegation of Certification.—A certification under subsection (a) or reversal of certification under subsection (c) may only be delegated by the Commissioner of Internal Revenue to the Deputy Commissioner for Services and Enforcement, or the Commissioner of an operating division of the Internal Revenue Service.

(b) Information Included in Notice of Lien and Levy.—

(1) Notice of Lien.—Section 6321(a)(3) of such Code is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end the following new subparagraph:

(3) the provisions of section 7345 relating to the certification of seriously delinquent tax debts and the denial, revocation, or limitation of passports or individuals with such debts pursuant to section 32101 of the FAST Act.

(2) Notice of Levy.—Section 6331(d)(4) of such Code is amended by striking "and" at the end of subparagraph (E), by striking the period at the end of subparagraph (F) and inserting ", and", and by adding at the end the following new subparagraph:

(4) the provisions of section 7345 relating to the certification of seriously delinquent tax debts and the denial, revocation, or limitation of passports or individuals with such debts pursuant to section 32101 of the FAST Act.

(5) Authority for Information Sharing.—

(1) In General.—Section 6103(k)(1) of such Code is amended by adding at the end the following new paragraph:

(11) Disclosure of Certain Information to Department of State for Purposes of Passport Revocation Under Section 7345.—

(A) In General.—The Secretary shall, upon receiving a certification described in section 7345, disclose to the Secretary of State return information with respect to a taxpayer who has a seriously delinquent tax debt described in such section. Such return information shall be limited to—

(1) if the taxpayer identify information with respect to such taxpayer, and
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‘(iii) the amount of such seriously delinquent tax debt.

(B) RESTRICTION ON DISCLOSURE.—Existing information
disclosed under subparagraph (A) may be used by officers
and employees of the Department of State for the purposes
of, and to the extent necessary to, carrying out the require-
ments of section 32101 of the FAST Act.'

(2) CONFORMING AMENDMENT.—Paragraph (4) of section
6102(p) of such Code is amended by striking ‘‘or 110’’ each
place it appears in subparagraph (8)(ii) and in the matter
preceding subparagraph (A) and inserting ‘‘110, 111, or 1111’’.

(d) TIME FOR CERTIFICATION OF SERIOUSLY DELINQUENT TAX
DEBT POSTPONED BY CAUSE OF SERVICE IN COMBAT ZONE.—Section
7508(a) of such Code is amended by striking the period at the
end of paragraph (2) and inserting ‘‘, and’’ and by adding at the
end the following new paragraph:

‘‘(3) Any certification of a seriously delinquent tax debt
under section 7508.’’;

(e) AUTHORITY TO DENY OR REVOKE PASSPORT—

(1) DENIAL—

(A) IN GENERAL.—Except as provided under subpar-
ograph (B), upon receiving a certification described in section
7508 of the Internal Revenue Code of 1986 from the Sec-
retary of the Treasury, the Secretary of State shall not
issue a passport to any individual who has a seriously
delinquent tax debt as described in such section.

(B) EMERGENCY AND HUMANITARIAN SITUATIONS.—Not-
withstanding subparagraph (A), the Secretary of State may
issue a passport, in emergency circumstances or for
humanitarian reasons, to an individual described in such
subparagraph.

(2) REVIJOCATION—

(A) IN GENERAL.—The Secretary of State may revoke
a passport previously issued to any individual described in
paragraph (1)(A).

(B) LIMITATION FOR RETURN TO UNITED STATES.—If the
Secretary of State decides to revoke a passport under
subparagraph (A), the Secretary of State, before revocation,
may—

(i) limit a previously issued passport only for
return travel to the United States; or

(ii) issue a limited passport that only permits
return travel to the United States.

(3) HOLD HARMLESS.—The Secretary of the Treasury, the
Secretary of State, and any of their designees shall not be
liable to any individual for any action with respect to a certifi-
cation by the Commissioner of Internal Revenue under section

(f) REVOCATION OR DENIAL OF PASSPORT IN CASE OF INDIVIDUAL
WITHOUT SOCIAL SECURITY ACCOUNT NUMBER—

(1) DENIAL—

(A) IN GENERAL.—Except as provided under subpar-
ograph (B), upon receiving an application for a passport
from an individual that either—

(i) does not include the social security account
number issued to that individual, or
(iii) includes an incorrect or invalid social security number willfully, intentionally, negligently, or recklessly provided by such individual, the Secretary of State is authorized to deny such application and is authorized to not issue a passport to the individual.

(B) EMERGENCY AND HUMANITARIAN SITUATIONS.—Notwithstanding subparagraph (A), the Secretary of State may issue a passport in emergency circumstances or for humanitarian reasons to an individual described in subparagraph (A).

(2) Revocation.—

(A) IN GENERAL.—The Secretary of State may revoke a passport previously issued to any individual described in paragraph (1)(A).

(B) LIMITATION FOR RETURN TO UNITED STATES.—If the Secretary of State decides to revoke a passport under subparagraph (A), the Secretary of State, before revocation may—

(i) limit a previously issued passport only for return travel to the United States;

(ii) issue a limited passport that only permits return travel to the United States;

(3) Removal of Certification From Record When Debt Ceases to Be Seriously Delinquent.—If pursuant to subsection (c) or (d) of section 7345 of the Internal Revenue Code of 1986 the Secretary of State receives from the Secretary of the Treasury a notice that an individual ceases to have a seriously delinquent tax debt, the Secretary of State shall remove from the individual’s record the certification with respect to such debt.

(C) REPORTING REQUIREMENTS.—The Secretary of State shall report to the Secretary of the Treasury the removal of a certification under this subsection. The Secretary of the Treasury shall report the removal of a certification under this subsection to the Secretary of the Treasury of the United States. The Secretary of the Treasury shall report the removal of a certification under this subsection to the Secretary of the Treasury of the United States.

(D) LIMITATION FOR RETURN TO UNITED STATES.—If the Secretary of State decides to revoke a passport under subparagraph (A), the Secretary of State, before revocation may—

(i) limit a previously issued passport only for return travel to the United States;

(ii) issue a limited passport that only permits return travel to the United States;

(4) Removal of Certification From Record When Debt Ceases to Be Seriously Delinquent.—If pursuant to subsection (c) or (d) of section 7345 of the Internal Revenue Code of 1986 the Secretary of State receives from the Secretary of the Treasury a notice that an individual ceases to have a seriously delinquent tax debt, the Secretary of State shall remove from the individual’s record the certification with respect to such debt.

(5) Removal of Certification From Record When Debt Ceases to Be Seriously Delinquent.—If pursuant to subsection (c) or (d) of section 7345 of the Internal Revenue Code of 1986 the Secretary of State receives from the Secretary of the Treasury a notice that an individual ceases to have a seriously delinquent tax debt, the Secretary of State shall remove from the individual’s record the certification with respect to such debt.

(6) COLLECTION OF INACTIVE TAX RECEIVABLES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall enter into one or more qualified tax collection contracts for the collection of all outstanding inactive tax receivables.

(B) INACTIVE TAX RECEIVABLES.—For purposes of this section—

"(A) IN GENERAL.—The term "inactive tax receivable" means any tax receivable if—"
(o) at any time after assessment, the Internal Revenue Service requires such receivable from the active inventory for lack of resources or inability to locate the taxpayer.

(ii) more than 1/4 of the period of the applicable statute of limitation has lapsed and such receivable has not been assigned for collection to any employee of the Internal Revenue Service; or

(iii) in the case of a receivable which has been assigned for collection, more than 365 days have passed without interaction with the taxpayer or a third party for purposes of furthering the collection of such receivable.

(b) Tax Receivable.—The term ‘tax receivable’ means any outstanding assessment which the Internal Revenue Service includes in potentially collectible inventory.

(b)(1) Certain Tax Receivables Not Eligible for Collection Under Qualified Tax Collection Contracts.—Section 6306 of the Internal Revenue Code of 1986, as amended by subsection (a), is amended by redesignating subsections (d) through (g) as subsections (e) through (h), respectively, and by inserting after subsection (c) the following new subsection:

'(d) Certain Tax Receivables Not Eligible for Collection Under Qualified Tax Collection Contracts.—A tax receivable shall not be eligible for collection pursuant to a qualified tax collection contract if such receivable—

'(D) is subject to a pending or active offer-in-compromise or installment agreement;

'(2) is classified as an innocent spouse case;

'(3) involves a taxpayer identified by the Secretary as being—

'(A) deceased;

'(B) under the age of 18;

'(C) in a designated combat zone; or

'(D) a victim of tax-related identity theft;

'(4) is currently under examination, litigation, criminal investigation, or levy, or

'(5) is currently subject to a proper exercise of a right of appeal under this title.'

(b)(2) Contracting Priority.—Section 6306 of the Internal Revenue Code of 1986, as amended by the preceding provisions of this section, is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (g) the following new subsection:

'(b) Contracting Priority.—In contracting for the services of any person under this section, the Secretary shall utilize private collection contractors and debt collection centers on the schedule required under section 3711(g) of title 31, United States Code, including the technology and communications infrastructure established therein, to the extent such private collection contractors and debt collection centers are appropriate to carry out the purposes of this section.'

(b)(3) Disclosure of Return Information.—Section 6408(k) of the Internal Revenue Code of 1986, as amended by section 321(0), is amended by adding at the end the following new paragraph:

'(3) Qualified Tax Collection Contractors.—Persons providing services pursuant to a qualified tax collection contract
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(a) to (d) Omitted

(e) Authority to deny or revoke passport

(1) Denial

(A) In general

Except as provided under subparagraph (B), upon receiving a certification described in section 7345 of title 26 from the Secretary of the Treasury, the Secretary of State shall not issue a passport to any individual who has a seriously delinquent tax debt described in such section.

(B) Emergency and humanitarian situations

Notwithstanding subparagraph (A), the Secretary of State may issue a passport, in emergency circumstances or for humanitarian reasons, to an individual described in such subparagraph.

(2) Revocation

(A) In general

The Secretary of State may revoke a passport previously issued to any individual described in paragraph (1)(A).

(B) Limitation for return to United States

If the Secretary of State decides to revoke a passport under subparagraph (A), the Secretary of State, before revocation, may-

(i) limit a previously issued passport only for return travel to the United States; or

(ii) issue a limited passport that only permits return travel to the United States.

(3) Hold harmless

The Secretary of the Treasury, the Secretary of State, and any of their designees shall not be liable to an individual for any action with respect to a certification by the Commissioner of Internal Revenue under section 7345 of title 26.

(f) Revocation or denial of passport in case of individual without social security account number

(1) Denial

(A) In general

Except as provided under subparagraph (B), upon receiving an application for a passport from an individual that either-

(i) does not include the social security account number issued to that individual, or

(ii) includes an incorrect or invalid social security number willfully, intentionally, negligently, or recklessly provided by such individual,
§ 51.65 Notification of denial or revocation of passport.

(a) The Department will notify in writing any person whose application for issuance of a passport has been denied, or whose passport has been revoked. The notification will set forth the specific reasons for the denial or revocation, and, if applicable, the procedures for review available under 22 CFR 51.70 through 51.74.

(b) An application for a passport will be denied or treated as abandoned if an applicant fails to meet his or her burden of proof under 22 CFR 51.23(a) and 51.40 or otherwise does not provide documentation sufficient to establish entitlement to passport issuance within ninety days of notification by the Department that additional information from the applicant is required. Thereafter, if an applicant wishes to pursue a claim of entitlement to passport issuance, he or she must submit a new application and supporting documents, photographs, and statements in support of the application, along with applicable application and execution fees.
§ 51.70 Request for hearing to review certain denials and revocations.

(a) A person whose passport has been denied or revoked under 22 CFR 51.60(b)(1) through (10), 51.60(c), 51.60(d), 51.61(b), 51.62(a)(1) where the basis for the adverse action would entitle the applicant to a hearing under this section, or § 51.62(a)(2), may request a hearing to the Department to review the basis for the denial or revocation within 60 days of receipt of the notice of the denial or revocation.

(b) The provisions of § 51.70 through 51.74 do not apply to any action of the Department taken on an individual basis in denying, restricting, revoking, or invalidating a passport or in any other way adversely affecting the ability of a person to receive or use a passport for reasons excluded from § 51.70(a), including:

(1) Non-nationality;

(2) Refusal under the provisions of 51.60(a);

(3) Refusal to grant a discretionary exception under emergency or humanitarian relief provisions of § 51.61(c);

(4) Refusal to grant a discretionary exception from geographical limitations of general applicability.

(c) If a timely request for a hearing is made, the Department will hold it within 60 days of the date the Department receives the request, unless the person requesting the hearing asks for a later date and the Department and the hearing officer agree.

(d) The Department will give the person requesting the hearing not less than 10 business days' written notice of the date and place of the hearing.
§ 51.60 Denial and restriction of passports.

(a) The Department may not issue a passport, except a passport for direct return to the United States, in any case in which the Department determines or is informed by competent authority that:

(1) The applicant is in default on a loan received from the United States under 22 U.S.C. 2671(b)(2)(B) for the repatriation of the applicant and, where applicable, the applicant's spouse, minor child(ren), and/or other immediate family members, from a foreign country (see 22 U.S.C. 2671(d)); or

(2) The applicant has been certified by the Secretary of Health and Human Services as notified by a state agency under 42 U.S.C. 652(k) to be in arrears of child support in an amount determined by statute.

(b) The Department may refuse to issue a passport in any case in which the Department determines or is informed by competent authority that:

(1) The applicant is the subject of an outstanding Federal warrant of arrest for a felony, including a warrant issued under the Federal Fugitive Felon Act (18 U.S.C. 1073); or

(2) The applicant is subject to a criminal court order, condition of probation, or condition of parole, any of which forbids departure from the United States and the violation of which could result in the issuance of a Federal warrant of arrest, including a warrant issued under the Federal Fugitive Felon Act; or

(3) The applicant is subject to a U.S. court order committing him or her to a mental institution; or

(4) The applicant has been legally declared incompetent by a court of competent jurisdiction in the United States; or

(5) The applicant is the subject of a request for extradition or provisional request for extradition which has been presented to the government of a foreign country; or

(6) The applicant is the subject of a subpoena received from the United States pursuant to 28 U.S.C. 1783, in a matter involving Federal prosecution for, or grand jury investigation of, a felony; or
(7) The applicant is a minor and the passport may be denied under 22 CFR 51.28; or

(8) The applicant is subject to an order of restraint or apprehension issued by an appropriate officer of the United States Armed Forces pursuant to chapter 47 of title 10 of the United States Code; or

(9) The applicant is the subject of an outstanding state or local warrant of arrest for a felony; or

(10) The applicant is the subject of a request for extradition or provisional arrest submitted to the United States by a foreign country.

(c) The Department may refuse to issue a passport in any case in which:

(1) The applicant has not repaid a loan received from the United States under 22 U.S.C. 2670(j) for emergency medical attention, dietary supplements, and other emergency assistance, including, if applicable, assistance provided to his or her child(ren), spouse, and/or other immediate family members in a foreign country; or

(2) The applicant has not repaid a loan received from the United States under 22 U.S.C. 2671(b)(2)(B) or 22 U.S.C. 2671(b)(2)(A) for the repatriation or evacuation of the applicant and, if applicable, the applicant's child(ren), spouse, and/or other immediate family members from a foreign country to the United States; or

(3) The applicant has previously been denied a passport under this section or 22 CFR 51.61., or the Department has revoked the applicant's passport or issued a limited passport for direct return to the United States under 22 CFR 51.62, and the applicant has not shown that there has been a change in circumstances since the denial, revocation or issuance of a limited passport that warrants issuance of a passport; or

(4) The Secretary determines that the applicant's activities abroad are causing or are likely to cause serious damage to the national security or the foreign policy of the United States.

(d) The Department may refuse to issue a passport in a case in which the Department is informed by an appropriate foreign government authority or international organization that the applicant is the subject of a warrant of arrest for a felony.

(e) The Department may refuse to issue a passport, except a passport for direct return to the United States, in any case in which the Department determines or is informed by a competent authority that the applicant is a minor who has been abducted, wrongfully removed or retained in violation of a court order or decree and return to his or her home state or habitual residence is necessary to permit a court of competent jurisdiction to determine custody matters.
22 CFR 51.70 - Request for hearing to review certain denials and revocations.

§ 51.70 Request for hearing to review certain denials and revocations.

(a) A person whose passport has been denied or revoked under 22 CFR 51.60(b)(1) through (10), 51.60(c), 51.60(d), 51.61(b), 51.62(a)(1) where the basis for the adverse action would entitle the applicant to a hearing under this section, or § 51.62(a)(2) may request a hearing to the Department to review the basis for the denial or revocation within 60 days of receipt of the notice of the denial or revocation.

(b) The provisions of §§ 51.70 through 51.74 do not apply to any action of the Department taken on an individual basis in denying, restricting, revoking, or invalidating a passport or in any other way adversely affecting the ability of a person to receive or use a passport for reasons excluded from § 51.70(a) including:

(1) Non-nationality;

(2) Refusal under the provisions of 51.60(a);

(3) Refusal to grant a discretionary exception under emergency or humanitarian relief provisions of § 51.61(c);

(4) Refusal to grant a discretionary exception from geographical limitations of general applicability.

(c) If a timely request for a hearing is made, the Department will hold it within 60 days of the date the Department receives the request, unless the person requesting the hearing agrees for a later date and the Department and the hearing officer agree.

(d) The Department will give the person requesting the hearing not less than 10 business days' written notice of the date and place of the hearing.
§ 51.60 Denial and restriction of passports.

(a) The Department may not issue a passport, except a passport for direct return to the United States, in any case in which the Department determines or is informed by competent authority that:

(1) The applicant is in default on a loan received from the United States under 22 U.S.C. 2671(b)(2)  
(2) for the repatriation of the applicant and, where applicable, the applicant's spouse, minor child(ren), and/or other immediate family members, from a foreign country (see 22 U.S.C. 2671(d)); or  
(2) The applicant has been certified by the Secretary of Health and Human Services as notified by a state agency under 42 U.S.C. 652(k) to be in arrears of child support in an amount determined by statute.  
(3) The applicant is certified by the Secretary of the Treasury as having a seriously delinquent tax debt as described in 26 U.S.C. 7345.  
(4) The applicant is a covered sex offender as defined in 22 U.S.C. 212b(c)(1), unless the passport, no matter the type, contains the conspicuous identifier placed by the Department as required by 22 U.S.C. 212b.

(b) The Department may refuse to issue a passport in any case in which the Department determines or is informed by competent authority that:

(1) The applicant is the subject of an outstanding Federal warrant of arrest for a felony, including a warrant issued under the Federal Fugitive Felon Act (18 U.S.C. 1073); or  
(2) The applicant is subject to a criminal court order, condition of probation, or condition of parole, any of which forbids departure from the United States and the violation of which could result in the issuance of a Federal warrant of arrest, including a warrant issued under the Federal Fugitive Felon Act; or  
(3) The applicant is subject to a U.S. court order committing him or her to a mental institution; or  
(4) The applicant has been legally declared incompetent by a court of competent jurisdiction in the United States; or  
(5) The applicant is the subject of a request for extradition or provisional request for extradition which has been presented to the government of a foreign country; or  
(6) The applicant is the subject of a subpoena received from the United States pursuant to 28 U.S.C. 1783, in a matter involving Federal prosecution for, or grand jury investigation of, a felony; or  
(7) The applicant is a minor and the passport may be denied under 22 CFR 51.28; or  
(8) The applicant is subject to an order of restraint or apprehension issued by an appropriate officer of the United States Armed Forces pursuant to chapter 47 of title 10 of the United States Code; or
(9) The applicant is the subject of an outstanding state or local warrant of arrest for a felony; or

(10) The applicant is the subject of a request for extradition or provisional arrest submitted to the United States by a foreign country.

(c) The Department may refuse to issue a passport in any case in which:

(1) The applicant has not repaid a loan received from the United States under 22 U.S.C. 2670(j) for emergency medical attention, dietary supplements, and other emergency assistance, including, if applicable, assistance provided to his or her child(ren), spouse, and/or other immediate family members in a foreign country; or

(2) The applicant has not repaid a loan received from the United States under 22 U.S.C. 2671(b)(2)(B) or 22 U.S.C. 2671(b)(2)(A) for the repatriation or evacuation of the applicant and, if applicable, the applicant's child(ren), spouse, and/or other immediate family members from a foreign country to the United States; or

(3) The applicant has previously been denied a passport under this section or 22 CFR 51.61, or the Department has revoked the applicant's passport or issued a limited passport for direct return to the United States under 22 CFR 51.62, and the applicant has not shown that there has been a change in circumstances since the denial, revocation or issuance of a limited passport that warrants issuance of a passport; or

(4) The Secretary determines that the applicant's activities abroad are causing or are likely to cause serious damage to the national security or the foreign policy of the United States.

(d) The Department may refuse to issue a passport in a case in which the Department is informed by an appropriate foreign government authority or international organization that the applicant is the subject of a warrant of arrest for a felony.

(e) The Department may refuse to issue a passport, except a passport for direct return to the United States, in any case in which the Department determines or is informed by a competent authority that the applicant is a minor who has been abducted, wrongfully removed or retained in violation of a court order or decree and return to his or her home state or habitual residence is necessary to permit a court of competent jurisdiction to determine custody matters.

(f) The Department may refuse to issue a passport to an applicant who fails to provide his or her Social Security account number on his or her passport application or who willfully, intentionally, negligently, or recklessly includes an incorrect or invalid Social Security account number.

(g) The Department shall not issue a passport card to an applicant who is a covered sex offender as defined in 22 U.S.C. 212b(c)(1).

22 CFR 51.60 - Denial and restriction of passports.

§ 51.60 Denial and restriction of passports.

(a) The Department may not issue a passport, except a passport for direct return to the United States, in any case in which the Department determines or is informed by competent authority that:

(1) The applicant is in default on a loan received from the United States under 22 U.S.C. 2671(b)(2) (B) for the repatriation of the applicant and, where applicable, the applicant’s spouse, minor child(ren), and/or other immediate family members, from a foreign country (see 22 U.S.C. 2671(d)); or

(2) The applicant has been certified by the Secretary of Health and Human Services as notified by a state agency under 42 U.S.C. 552(k) to be in arrears of child support in an amount determined by statute.

(3) The applicant is certified by the Secretary of the Treasury as having a seriously delinquent tax debt as described in 26 U.S.C. 7345.

(4) The applicant is a covered sex offender as defined in 22 U.S.C. 212b(c)(1), unless the passport, no matter the type, contains the conspicuous identifier placed by the Department as required by 22 U.S.C. 212b.

(b) The Department may refuse to issue a passport in any case in which the Department determines or is informed by competent authority that:

(1) The applicant is the subject of an outstanding Federal warrant of arrest for a felony, including a warrant issued under the Federal Fugitive Felon Act (18 U.S.C. 1073); or

(2) The applicant is subject to a criminal court order, condition of probation, or condition of parole, any of which forbids departure from the United States and the violation of which could result in the issuance of a Federal warrant of arrest, including a warrant issued under the Federal Fugitive Felon Act; or

(3) The applicant is subject to a U.S. court order committing him or her to a mental institution; or

(4) The applicant has been legally declared incompetent by a court of competent jurisdiction in the United States; or

(5) The applicant is the subject of a request for extradition or provisional request for extradition which has been presented to the government of a foreign country; or

(6) The applicant is the subject of a subpoena received from the United States pursuant to 28 U.S.C. 1783, in a matter involving Federal prosecution for, or grand jury investigation of, a felony; or

(7) The applicant is a minor and the passport may be denied under 22 CFR 51.28; or

(8) The applicant is subject to an order of restraint or apprehension issued by an appropriate officer of the United States Armed Forces pursuant to chapter 47 of title 10 of the United States Code; or
(9) The applicant is the subject of an outstanding state or local warrant of arrest for a felony, or

(10) The applicant is the subject of a request for extradition or provisional arrest submitted to the United States by a foreign country.

(c) The Department may refuse to issue a passport in any case in which:

(1) The applicant has not repaid a loan received from the United States under 22 U.S.C. 2670(j) for emergency medical attention, dietary supplements, and other emergency assistance, including, if applicable, assistance provided to his or her child(ren), spouse, and/or other immediate family members in a foreign country; or

(2) The applicant has not repaid a loan received from the United States under 22 U.S.C. 2671(b)(2) (B) or 22 U.S.C. 2671(b)(2)(A) for the repatriation or evacuation of the applicant and, if applicable, the applicant's child(ren), spouse, and/or other immediate family members from a foreign country to the United States; or

(3) The applicant has previously been denied a passport under this section or 22 CFR 51.61, or the Department has revoked the applicant's passport or issued a limited passport for direct return to the United States under 22 CFR 51.62, and the applicant has not shown that there has been a change in circumstances since the denial, revocation or issuance of a limited passport that warrants issuance of a passport; or

(4) The Secretary determines that the applicant's activities abroad are causing or are likely to cause serious damage to the national security or the foreign policy of the United States.

(d) The Department may refuse to issue a passport in a case in which the Department is informed by an appropriate foreign government authority or international organization that the applicant is the subject of a warrant of arrest for a felony.

(e) The Department may refuse to issue a passport, except a passport for direct return to the United States, in any case in which the Department determines or is informed by a competent authority that the applicant is a minor who has been abducted, wrongfully removed or retained in violation of a court order or decree and return to his or her home state or habitual residence is necessary to permit a court of competent jurisdiction to determine custody matters.

(f) The Department may refuse to issue a passport to an applicant who fails to provide his or her Social Security account number on his or her passport application or who willfully, intentionally, negligently, or recklessly includes an incorrect or invalid Social Security account number.

(g) The Department shall not issue a passport card to an applicant who is a covered sex offender as defined in 22 U.S.C. 212b(c)(1).

§ 51.65 Notification of denial or revocation of passport.

(a) The Department will notify in writing any person whose application for issuance of a passport has been denied, or whose passport has been revoked. The notification will set forth the specific reasons for the denial or revocation, and, if applicable, the procedures for review available under 22 CFR 51.70 through 51.74.

(b) An application for a passport will be denied or treated as abandoned if an applicant fails to meet his or her burden of proof under 22 CFR 51.23(a) and 51.40 or otherwise does not provide documentation sufficient to establish entitlement to passport issuance within ninety days of notification by the Department that additional information from the applicant is required. Thereafter, if an applicant wishes to pursue a claim of entitlement to passport issuance, he or she must submit a new application and supporting documents, photographs, and statements in support of the application, along with applicable application and execution fees.
22 CFR 51.65 - Notification of denial or revocation of passport.

§ 51.65 Notification of denial or revocation of passport.

(a) The Department will notify in writing any person whose application for issuance of a passport has been denied, or whose passport has been revoked. The notification will set forth the specific reasons for the denial or revocation, and, if applicable, the procedures for review available under 22 CFR 51.70 through 51.74.

(b) An application for a passport will be denied or treated as abandoned if an applicant fails to meet his or her burden of proof under 22 CFR 51.23(a) and 51.40 or otherwise does not provide documentation sufficient to establish entitlement to passport issuance within ninety days of notification by the Department that additional information from the applicant is required. Thereafter, if an applicant wishes to pursue a claim of entitlement to passport issuance, he or she must submit a new application and supporting documents, photographs, and statements in support of the application, along with applicable application and execution fees.

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22 CFR 51.66 - Surrender of passport.

§ 51.66 Surrender of passport.
The bearer of a passport that is revoked must surrender it to the Department or its authorized representative upon demand.
22 CFR 51.62 - Revocation or limitation of passports.

§ 51.62 Revocation or limitation of passports.

(a) The Department may revoke or limit a passport when

(1) The bearer of the passport may be denied a passport under 22 CFR 51.60 or 51.61; or 51.28; or any other provision contained in this part; or,

(2) The passport has been obtained illegally, fraudulently or erroneously; was created through illegality or fraud practiced upon the Department; or has been fraudulently altered or misused;

(b) The Department may revoke a passport when the Department has determined that the bearer of the passport is not a U.S. national, or the Department is on notice that the bearer's certificate of citizenship or certificate of naturalization has been canceled.
§ 51.70 Request for hearing to review certain denials and revocations.

(a) A person whose passport has been denied or revoked under 22 CFR 51.60(b)(1) through (10), 51.60(c), 51.60(d), 51.61(b), 51.62(a)(1) where the basis for the adverse action would entitle the applicant to a hearing under this section, or § 51.62(a)(2) may request a hearing to the Department to review the basis for the denial or revocation within 60 days of receipt of the notice of the denial or revocation.

(b) The provisions of §§ 51.70 through 51.74 do not apply to any action of the Department taken on an individual basis in denying, restricting, revoking, or invalidating a passport or in any other way adversely affecting the ability of a person to receive or use a passport for reasons excluded from § 51.70(a) including:

(1) Non-nationality;

(2) Refusal under the provisions of 51.60(a);

(3) Refusal to grant a discretionary exception under emergency or humanitarian relief provisions of § 51.61(c);

(4) Refusal to grant a discretionary exception from geographical limitations of general applicability.

(c) If a timely request for a hearing is made, the Department will hold it within 60 days of the date the Department receives the request, unless the person requesting the hearing asks for a later date and the Department and the hearing officer agree.

(d) The Department will give the person requesting the hearing not less than 10 business days' written notice of the date and place of the hearing.
§ 51.70 Request for hearing to review certain denials and revocations.

(a) A person whose passport has been denied or revoked under 22 CFR 51.60(b)(1) through (10), 51.60(c), 51.60(d), 51.61(b), 51.62(a)(1) where the basis for the adverse action would entitle the applicant to a hearing under this section, or § 51.62(a)(2), may request a hearing to the Department to review the basis for the denial or revocation within 60 days of receipt of the notice of the denial or revocation.

(b) The provisions of § 51.70 through 51.74 do not apply to any action of the Department taken on an individual basis in denying, restricting, revoking, or invalidating a passport or in any other way adversely affecting the ability of a person to receive or use a passport for reasons excluded from § 51.70(a), including:

(1) Non-nationality;

(2) Refusal under the provisions of 51.60(a);

(3) Refusal to grant a discretionary exception under emergency or humanitarian relief provisions of § 51.61(b);

(4) Refusal to grant a discretionary exception from geographical limitations of general applicability.

(c) If a timely request for a hearing is made, the Department will hold it within 60 days of the date the Department receives the request, unless the person requesting the hearing asks for a later date and the Department and the hearing officer agree.

(d) The Department will give the person requesting the hearing not less than 10 business days' written notice of the date and place of the hearing.
22 CFR 51.71 - The hearing.

§ 51.71 The hearing.

(a) The Department will name a hearing officer, who will make findings of fact and submit recommendations based on the record of the hearing as defined in § 51.72 to the Deputy Assistant Secretary for Passport Services in the Bureau of Consular Affairs.

(b) The person requesting the hearing may appear in person, or with or by his designated attorney. The attorney must be admitted to practice in any state of the United States, the District of Columbia, any territory or possession of the United States, or be admitted to practice before the courts of the country in which the hearing is to be held.

(c) The person requesting the hearing may testify, offer evidence in his or her own behalf, present witnesses, and make arguments at the hearing. The person requesting the hearing is responsible for all costs associated with the presentation of his or her case. The Department may present witnesses, offer evidence, and make arguments in its behalf. The Department is responsible for all costs associated with the presentation of its case.

(d) Formal rules of evidence will not apply, but the hearing officer may impose reasonable restrictions on relevancy, materiality, and competency of evidence presented. Testimony will be under oath or by affirmation under penalty of perjury. The hearing officer may not consider any information that is not also made available to the person requesting the hearing and made a part of the record of the proceeding.

(e) If any witness is unable to appear in person, the hearing officer may, in his or her discretion, accept an affidavit from or order a deposition of the witness, the cost for which will be the responsibility of the requesting party.
22 CFR 51.72 - Transcript and record of the hearing.

§ 51.72 Transcript and record of the hearing.
A qualified reporter will make a complete verbatim transcript of the hearing. The person requesting the hearing and/or his or her attorney may review and purchase a copy of the transcript. The hearing transcript and the documents received by the hearing officer will constitute the record of the hearing.
22 CFR 51.73 - Privacy of hearing.

§ 51.73 Privacy of hearing.
Only the person requesting the hearing, his or her attorney, the hearing officer, official reporters, and employees of the Department directly concerned with the presentation of the case for the Department may be present at the hearing. Witnesses may be present only while actually giving testimony or as otherwise directed by the hearing officer.
22 CFR 51.74 - Final decision.

§ 51.74 Final decision.
After reviewing the record of the hearing and the findings of fact and recommendations of the hearing officer, the Deputy Assistant Secretary for Passport Services will decide whether to uphold the denial or revocation of the passport. The Department will promptly notify the person requesting the hearing in writing of the decision. If the decision is to uphold the denial or revocation, the notice will contain the reason(s) for the decision. The decision is final and is not subject to further administrative review.
22 CFR 51.74 - Final decision.

§ 51.74 Final decision.
After reviewing the record of the hearing and the findings of fact and recommendations of the hearing officer, the Deputy Assistant Secretary for Passport Services will decide whether to uphold the denial or revocation of the passport. The Department will promptly notify the person requesting the hearing in writing of the decision. If the decision is to uphold the denial or revocation, the notice will contain the reason(s) for the decision. The decision is final and is not subject to further administrative review.
the advisor or tax examiner requesting input of the TC 470, along with a request for input of the literal activity code "F1127EXT." In addition, the Form 4844 will include a request for input of history bases with the following information: F1127EXT PAYMTIDUEX MDDYYY. The history base(s) will document the extended due date granted in case the taxpayer fails to submit payment when due. See Exhibit 5.1.12-6, Sample Form 4844, First Request for Terminal Action for Approved Form 1127 Extension.

2. Ensure that the account is in status 20, 21, 54, 56 or 58 at input so that the status changes to status 47 as needed to keep the account in suspense. The TC 470 will delay issuance of the Taxpayer Delinquent Account (TDA). Request input of a second TC 470 after 11 weeks to ensure that the account remains suspended in status 47 as required. This will delay the TDA for a total of 28 weeks.

   Note:
   Without the control base, the TC 470 would release in only nine weeks, and three TC 470s would be needed.

3. If an extension for a longer period of time is approved, request input of a TC 470 as needed to delay issuance of the TDA for the period of the extension.

   Note:
   Approval of the extension does not relieve the taxpayer from liability for interest that accrues during the period of the extension, but does provide relief from the failure to pay (FTP) tax penalty to the extended due date, even if the taxpayer fails to submit full payment by that date.

4. To keep the FTP tax penalty from accruing, Advisory will prepare a second Form 4844 requesting input of TC 270, with $0.00 as the amount. See Exhibit 5.1.12-7, Sample Form 4844, Second Request for Terminal Action for Approved Form 1127 Extension. If the taxpayer fails to submit full payment of the tax due by the Form 1127 extension date, manual computations of the FTP tax penalty will be required thereafter. The FTP tax penalty starts accruing after the extension date. The IRS command code COMPFA is used to complete manual computations of FTP tax penalties. See IRM 20.1.2, Penalty Handbook, Failure to File/Failure to Pay Penalties, for more information regarding the computation of the FTP tax penalty.

5. Advisory is responsible for requesting input of the appropriate case controls, and manually monitoring the case to ensure the case controls reflect the extension. Advisory will request the abatement of the FTP tax penalty if erroneously assessed for the period the extension was granted. Additionally, Advisory will document the ICS history with the actions taken.

5.1.12.27 (12-20-2017)
Passport Certification in Case of Certain Tax Debts

1. The Fixing America's Surface Transportation (FAST) Act, signed into law December 4, 2015, created new code section IRC § 7345 which requires the IRS to notify the State Department when an individual is certified as owing a seriously delinquent tax debt.

5.1.12.27.1 (12-20-2017)
Passport Certification Overview

1. IRC § 7345 requires the IRS to notify the State Department that an individual is certified as owing a seriously delinquent tax debt. Upon certification, the State Department shall be notified that an individual is certified as owing a seriously delinquent tax debt.

2. IRS Commissioner approval is required for certification and has not been re-delegated below the Commissioner of an Operating Division.

3. When this notification of certification is received from the IRS, the State Department is generally required to deny the certified individual a U.S. passport (or renewal of a U.S. passport) or may revoke any U.S. passport previously issued to that individual. The State Department has the sole authority to revoke or limit a passport held by a certified individual. Whether a passport will be revoked or limited is left solely to the discretion of the State Department.

   Note:
Passport certification is separate and distinct from obtaining passport information from the United States Passport Office in connection with an official investigation. See IRM 5.1.16.13, United States Passport Office, for procedures on how to request a passport check.

Reminder:

If after spending a reasonable amount of time researching the issue without success, consulting with your manager, an OJII, or a senior revenue officer, follow the procedures to post questions to the Ask Collection Policy website at http://mytsse.web.irs.gov/Collection/askcollectionpolicy/default.aspx to seek technical clarification of procedures related to passport legislation or to raise issues that need clarification in future IRM updates. This site does not replace the need to work through management channels to resolve specific taxpayer cases. Questions posted to this site should not contain personally identifiable information.

5.1.12.27.2 (12-20-2017)

Seriously Delinquent Tax Debt

1. For the purpose of passport certification, seriously delinquent tax debt is the unpaid, legally enforceable federal tax liability, which has been assessed, of an individual totaling more than $50,000 for which:

   a. A Notice of Federal Tax Lien has been filed and all administrative remedies under IRC § 6330 have lapsed or been exhausted, or

      Note:

      When a Collection Due Process (CDP) Lien hearing is timely requested, or pending in connection with the filing of a Notice of Federal Tax Lien, the taxpayer's remedies under IRC § 6330 have not been exhausted until the CDP hearing (and any appeals of the determination) have been concluded. If no CDP Lien hearing is requested for the NFTL, the above criteria is met once the time period for requesting a timely CDP Lien hearing has lapsed.

      Note:

      A pending or requested Equivalent Hearing (EH), in connection with the filing of a Notice of Federal Tax Lien, as described in IRM 5.1.9.3.2.2, will not preclude a liability from being considered a seriously delinquent tax debt.

   b. A levy has been issued.

2. The $50,000 threshold, which is indexed yearly for inflation, is the aggregate unpaid balance of assessment. The unpaid balance of assessment includes tax and assessed interest and penalties. It does not include accrued interest and penalty.

   Note:

   As of January 1, 2018, the threshold amount indexed for inflation will be $54,000.

Caution:

Once the taxpayer is certified, paying the account below the $50,000 threshold (or the threshold amount indexed for inflation effective at the time of certification) will not result in decertification. Certification will not be reversed unless all certified modules for which notice of the certification have been sent have been fully satisfied (e.g., Status 12), become legally unenforceable, or meet the criteria for reversal in accordance with IRM 5.1.12.27.8.

3. Unless otherwise listed as statutory or discretionary exclusions (in IRM 5.1.12.27.3 or IRM 5.1.12.27.4), a seriously delinquent tax debt includes, but is not limited to, tax assessments made under an individual's taxpayer identification number (SSN or EIN) such as U.S. individual income taxes, trust fund recovery penalties, business taxes for which the individual is liable and other civil penalties. This does not include other non-tax liabilities such as:

   - ACA assessments, Individual Shared Responsibility Payments (MFT 35 or 65),
   - Employer Shared Responsibility Payments (ESRP) modules (MFT 43),
• Criminal Restitution assessments (MFT 31 with unreversed TC 971 AC 102).


Note:

FBAR penalties are asserted under Title 31 as a non-tax debt and do not appear on IDRS. They are tracked on a separate database at Detroit where payments are posted and notices generated.

5.1.12.27.3 (12-20-2017)

Statutory Exclusions from Certification

1. IRC § 7345(b)(2) excludes the following tax debt from the determination of seriously delinquent tax debt, even if it meets the criteria in IRM 5.1.12.27.2, Seriously Delinquent Tax Debt:

   a. Debt that is being paid in a timely manner under an installment agreement entered into with the IRS under IRC 6159.

   Exception:

   Per IRM 5.11.5.6, even though some continuous levies are monitored in status 60 on IDRS, they are not installment agreements and do not meet the criteria for this exclusion.

   b. Debt that is being paid in a timely manner under either an Offer in Compromise accepted by the IRS or a settlement agreement entered into with the Department of Justice under IRC 7122.

   c. Debt on which collection is suspended because a Collection Due Process hearing under IRC 6330 is timely requested, or pending, in connection with a levy to collect the debt, or

   Exception:

   An Equivalent Hearing (EH) in connection with a levy to collect the debt, as described in IRM 5.1.9.3.2.2 does not meet the criteria for this exclusion.

   d. Debt on which collection has been suspended because a request for innocent spouse relief under IRC 6015 has been made.

2. Certification is postponed under IRC 7508(a) for taxpayers serving in a combat zone. For taxpayers serving in a combat zone who owe a seriously delinquent tax debt, the IRS postpones notifying the State Department and the individual’s passport is not subject to denial during this time.

5.1.12.27.4 (12-20-2017)

Discretionary Exclusions from Certification

1. IRC § 7345 provides the IRS discretion to exclude categories of tax debt from certification, even if the debt meets the criteria in IRM 5.1.12.27.2, Seriously Delinquent Tax Debt. The following categories of tax debt will be excluded from the determination of seriously delinquent tax debt of the IRS:

   a. Debt that is currently not collectible (CNC) due to hardship (unreversed TC 530 cc 24 - 32).

   b. Debt that resulted from identity theft (unreversed TC 971 AC 501, 505, 506, 522, 523, and 525).

   c. Debt of a taxpayer in bankruptcy,

   d. Debt of a deceased taxpayer.

   Note:

   Only the individual identified as deceased is excluded from certification.

   e. Debt that is included in a pending Offer in Compromise (unreversed TC 480).

   Exception:

   This exclusion does not apply unless the Offer in Compromise meets pending Offer in Compromise criteria as described in IRM 5.8.2.3.1, Determining Processability.
Exception:
This exclusion does not apply if the Offer in Compromise was made solely to delay collection. See IRM 5.8.4.20, Offer Submitted Solely to Delay Collection.

f. Debt that is included in a pending installment agreement (unreversed TC 971 AC 043),

Exception:
This exclusion does not apply unless the installment agreement request meets pending installment agreement criteria as described in IRM 5.14.1.3(4).

g. Debt with a pending adjustment that will fully pay the tax period (unreversed TC 470 AC 90), and

h. Taxpayers in a Disaster Zone (-O or -S Freeze).

2. These discretionary exclusion categories are subject to change in the future.

5.1.12.27.5 (12-20-2017)
Identification of Levy on the Taxpayer's Account

1. Once levy action has occurred, revenue officers will generally not need to take any further steps for the levy action to be identified on the taxpayer's account. Taxpayer accounts will be systemically identified once levy action has occurred. As described in IRM 5.1.12.27.2, the issuance of a levy is one of the criteria for certifying a tax debt is seriously delinquent. A transaction TC 971 AC 640 has been created to identify tax periods for which levy action has occurred. This transaction code will be systemically uploaded beginning January 2017 the first time a module has been included on levy actions occurring after this date.

Exception:
For purposes of passport certification, for modules in which the first levy is manually issued after December 2016, the revenue officer must request a manual input of TC 971 AC 640 via Form 4844 to CCP for each module included on a manual levy that does not already have a TC 971 AC 640. Request the manual input of TC 971 AC 640 only after the taxpayer's right to a post-levy CDP hearing has expired or the CDP hearing is resolved.

2. The systemic input of TC 971 AC 640 to identify levy action on the taxpayer's account is delayed for eight (8) weeks if the taxpayer is given post-levy CDP rights. The first time the module is included on a levy. This will allow the taxpayer time to appeal.

3. The following are examples from IRC 6330(f) and (h) in which the IRS may serve a levy to collect taxes prior to giving the taxpayer pre-levy Collection Due Process (CDP) rights:
   a. Jeopardy levy,
   b. Disqualified employment tax levy (DETL),
   c. Federal contractor (FEDCON) levy, and
   d. Levy on a State to collect a Federal tax liability from a State tax refund.

Note:
For purposes of passport certification, a state income tax refund levy will not be recognized as a levy until CDP notification is provided.

5.1.12.27.6 (12-20-2017)
Identification of Certified Seriously Delinquent Tax Debt

1. Seriously delinquent tax debt will be identified as certified by an unreversed TC 971 AC 641 on each module of a taxpayer's account eligible for certification. The TC 971 AC 641 will be added to CC.
2. Each individual identified as certified will be systemically sent a certification Notice CP 508C displaying each certified module balance. The notice will be sent to the individual's last known address. The issuance of a Notice CP 508C will be displayed in the Notice History Section of CE TXMODA.

3. On a joint module where both the primary and secondary taxpayers are identified as certified, each individual will have their own TC 971 AC 641.

Caution:
Employees should not manually input TC 971 AC 641 or attempt to manually generate Notice CP 508C.

4. Taxpayer certifications will be provided systemically to State Department on a weekly basis.

5. A certified module is decertified when the TC 971 AC 641 is reversed with a TC 972 AC 641. A certified module is reversed when it meets one of the conditions listed in IRM 5.1.12.27.7, Reversal of Certification.

6. Each taxpayer's certification stands on its own. A taxpayer will be decertified when the last certified module is reversed with a TC 972 AC 641. A decertified taxpayer will be sent a reversal of certification Notice CP 508R. On a joint account where both the primary and secondary taxpayers are identified as certified, each individual will have their own TC 972 AC 641 to reverse the certification.

7. The Notice CP 508R will be shown in the Notice History Section of CE TXMODA. The TC 972 AC 641 indicating reversal of certification will be displayed on IDRS Command Code ENMOD, IMFOL, IMFOLT and TXMODA, and reflect the SSN of the decertified individual and date of the decertification (reversal of certification) notice. On a weekly basis, IRS will systemically inform the State Department regarding each newly decertified taxpayer.

5.1.12.27.7 (12-20-2017)
Taxpayer Notification

1. The IRS is required to notify the taxpayer in writing at the time the certification of seriously delinquent tax debt is made to the State Department. Notice CP 508C is sent to the taxpayer.

2. IRS Commissioner approval is required for certification and has not been re-delegated below the Commissioner of an Operating Division.

3. The Notice CP 508C may identify more than one TIN related to a specific taxpayer. Both the liabilities of the IMF and BFM accounts may be used to determine whether the taxpayer meets the certification threshold.

4. The IRS is also required to notify the taxpayer in writing at the time the certification is reversed. Notice CP 508R is sent to the taxpayer.

5. The IRS will send the notice by regular mail to the taxpayer's last known address. Notification will be generated systemically.

6. If an individual certified as having a seriously delinquent tax debt applies for a passport or a passport renewal, the State Department will hold the application of a certified taxpayer open for 90 days to allow the taxpayer to resolve any certification issues, make full payment of the tax debt or enter into a satisfactory payment alternative with the IRS before denying an application for a passport or renewal.

Note:
The State Department is responsible for issuance of U.S. passports. The IRS does not have authority to issue or deny a U.S. passport. Under 22 U.S.C. § 274a, the State Department may, notwithstanding a certification from the IRS, issue a U.S. passport to a taxpayer if the State Department determines emergency circumstances or humanitarian reasons justifying issuance of the
passport. This does not affect the taxpayer's certification as a seriously delinquent taxpayer or reverse their certification. If a taxpayer, who is responding to a certification letter from the IRS or a denial letter from the State Department, requests their U.S. passport be issued for non-tax-related reasons, refer them to their local passport office or the contact information provided on their State Department correspondence.

5.1.12.27.7.1 (12-20-2017)
Taxpayer Notification of Subsequent Certified Modules

1. When a certified individual incurs an additional liability that meets the criteria for certification, the aggregate assessed balance is systematically recalculated to include the previously certified modules as well as the new module. If the total liability meets the seriously delinquent debt criteria in IRM 5.1.12.27.2, Seriously Delinquent Tax Debt, a new Notice CP 508C is systematically generated reflecting all modules including the new module. As a result, the new Notice CP 508C may reflect different balances for previously certified modules due to changes on the account such as any payments or audit adjustments.

   Example:

   The taxpayer's account was previously certified for a $65,000 tax debt. When a new module for $2,000 becomes eligible for certification, the new module's balance will be systematically added to the current balance due of all previously certified modules. If the new aggregate assessed balance is $44,000 due to payments or offsets, the new module would not be certified because the aggregate assessed balance is less than the minimum amount for certification in IRM 5.1.12.27.2, Seriously Delinquent Tax Debt. However, the taxpayer's account remains certified based on the previously certified modules, and will not be decertified until all certified modules are satisfied.

2. If a taxpayer claims they have paid their certified debt on a module based on their Notice CP 508C and the certified module has an additional assessment posted subsequent to the issuance of the notice, the revenue officer sends an explanation of their research results along with a request for assistance through their manager to the Passport Analyst in an email with the subject heading "Review of Subsequent Certified Module" at "SSBSE Passport Support".

5.1.12.27.8 (12-20-2017)
Reversal of Certification

1. The IRS will reverse the certification of seriously delinquent tax debt and notify the State Department within 30 days if the previously certified tax debt:
   a. Is fully satisfied (Status 12),
   b. Becomes legally unenforceable,
   c. Ceases to be seriously delinquent tax debt.

   Note:

   A previously certified tax debt ceases to be seriously delinquent tax debt when a statutory exclusion is met. See IRM 5.1.12.27.3, Statutory Exclusions from Certification.

   Exception:

   Certification will not be reversed because the taxpayer pays the debt to below the threshold amount indexed for inflation effective at the time of certification. All certified modules must be fully satisfied (e.g., Status 12), become legally unenforceable, or meet an exclusion for certification to be reversed.

2. If the certification is found to be erroneous, the IRS will notify the State Department as soon as practicable. The IRS will also notify the taxpayer once the certification is reversed. Examples of erroneous certification are as follows:
   a. A taxpayer is in a Combat Zone, but the service did not receive notification. The account was erroneously certified because no C-Freeze was present.
b. The taxpayer has an approved installment agreement being paid in a timely manner but the TC 971 AC 063 was not input in IDRS on the taxpayer's account.

c. The taxpayer has an innocent spouse relief claim under IRC 6015, and the account was not properly coded.

3. The Tax Court or a District Court of the United States may order the IRS to reverse the certification. See IRM 5.1.12.27.9, Appeals Process and Judicial Review of Certification.

Note:
When decertification is required as a result of litigation, the revenue officer should work with Counsel to provide notification to the Passport Analyst as described in IRM 5.1.12.27.9, Appeals Process and Judicial Review of Certification.

4. The IRS has the discretion to request a decertification for other reasons. The IRS will decertify a previously certified tax debt that ceases to be seriously delinquent tax debt when a discretionary exclusion is met. See IRM 5.1.12.27.4, Discretionary Exclusions from Certification: Examples of discretionary reversal include:

   a. A certified taxpayer who later files bankruptcy (unreversed TC 520 cc 60-67, B1, B3-89)
   b. A certified taxpayer entering a Combat Zone.
   c. A certified taxpayer who is later determined to be currently not collectible due to hardship (unreversed TC 530 cc 24-32)
   d. The Department of State requests the IRS to decertify
   e. An adjustment to the account that reduces the original certification amount below the threshold for certification in IRM 5.1.12.27.2. The original return has been filed and processed, or the adjustment has posted.

Example:
IRS assesses taxpayer's liability of $54,000, of which $3,000 is attributable to a penalty. The taxpayer's seriously delinquent tax debt is certified. The taxpayer requests penalty abatement on the basis of reasonable cause. IRS finds the taxpayer had reasonable cause and abates the penalty, lowering the taxpayer's total liability to $45,000. Since the liability is reduced below the threshold for certification in IRM 5.1.12.27.2, the taxpayer is eligible for decertification.

Caution:
Not all penalty abatements will result in decertification. For example, a penalty abatement of a certified module due to an administrative waiver under the First Time Abate criteria in IRM 20.1.1.3.3.2.1 will not result in decertification, even if the adjusted total liability is less than the threshold amount indexed for inflation.

Example:
The taxpayer has a liability of $66,000 for tax period 30/201512 due to an SFR assessment. The taxpayer is certified as a seriously delinquent tax debt and receives a Notice CP 508C. The taxpayer is in the process of renewing their U.S. Passport with the Department of State. The taxpayer files a return for tax period 30/201512 which reduces the tax debt to $30,000. Once the taxpayer's return for 30/201512 is processed and posted on IDRS, the taxpayer will be eligible for decertification.

d. The taxpayer claims to have paid their certified debt on a module based on their Notice CP 508C and the certified module has an additional assessment posted subsequent to the issuance of the notice. The revenue officer will request assistance through their management chain. This can be done by sending an email asking for assistance from their manager and including the results of their research. If the issue cannot be resolved, forward the email message to the Passport Analyst with the subject heading "Review of Subsequent Assessment" at "SBSR Passport Support".

5. A taxpayer's account will remain certified as seriously delinquent tax debt when
a. A taxpayer requests a CDP lien or levy hearing for tax periods which are not the basis of certification of a seriously delinquent tax debt.

Example:
The taxpayer is already certified as owing a seriously delinquent tax debt. The revenue officer issues L-1058 on an additional tax period to provide notice of CDP levy rights. The taxpayer requests a timely CDP levy hearing. The certification of seriously delinquent tax debt is not reversed for the pending CDP levy hearing on this additional tax period.

b. A taxpayer requests Innocent Spouse relief for tax periods which are not the basis of certification of a seriously delinquent tax debt.

c. A taxpayer requests a CDP Lien hearing for a subsequent NFTL filing on the modules that are the basis of certification of a seriously delinquent tax debt.

d. A taxpayer requests a CDP Lien hearing when the certification was based on a levy.

6. On a joint module, where both the primary and secondary taxpayers are identified as decertified, a separate TC 972 AC 641 will be input to decertify both spouses.

7. If the taxpayer’s explanation of why their account should be decertified meets decertification criteria, the revenue officer should verify the explanation as appropriate and then utilize existing procedures to update the account with any missing freeze codes or transaction codes that would result in systematically decertifying the taxpayer’s account. If the revenue officer is unable to resolve the issue as to why the modules were not decertified, the revenue officer will request assistance through their management chain. This can be done by sending an email asking for assistance from their manager and including the results of their research. If the issue cannot be resolved, forward the email to the Passport Analyst with the subject heading “Review of Certification” at “SBSE Passport Support.”

8. Request expedited decertification when all of the following conditions exist:

   a. A certified taxpayer is eligible for decertification as described above.

   b. The taxpayer states their foreign travel is scheduled within 45 days or less, and

   c. The taxpayer has a pending application for a passport or renewal and can provide their passport application number.

Note:
Taxpayers residing outside of the United States may have an urgent need for a passport without having imminent travel plans. When a taxpayer residing outside of the United States meets conditions in IRM 5.1.12.27.5(6)(a) and (c), self-identifies as having an urgent need for decertification, request expedited decertification.

9. Given the urgency of the situation, request an expedited decertification as soon as possible according to the following procedures:

   The revenue officer completes Form 14794, Expedited Passport Decertification, secures managerial approval and forwards the form to the Passport Analyst in an email with the subject heading “Expedited Decertification” at “SBSE Passport Group.”

Reminder:
The taxpayer must provide their passport application number. This number must be entered when completing Form 14794, Expedited Passport Decertification, or it is not processable. If the taxpayer applied for a U.S. passport while outside of the U.S., add the location of the passport application (city, country) on Form 14794.
Upon securing the appropriate approval for passport decertification, the Passport Analyst will transmit the Form 14794, *Expeditied Passport Decertification*, directly to the State Department for action.

**Caution:**

Do not offer expedited decertification. Explain that decertification will occur systematically and the State Department will be notified within 45 days. If the taxpayer indicates a problem with planned travel that meets the criteria in IRM 5.12.27.8(6), follow expedited decertification procedures.

**Note:**

If a taxpayer residing in the United States plans foreign travel more than 45 days in the future, do not utilize expedited decertification procedures. Instead, advise the taxpayer that decertification will happen systematically.

**Note:**

If it is known that a taxpayer is currently challenging their certification in Tax Court or District Court of the United States and all certified modules for which notice of such certification has been sent have been fully satisfied (e.g., Status 12), become legally unenforceable or meet the criteria for reversal in accordance with IRM 5.12.27.8, this information should be communicated to the Counsel attorney handling the taxpayer's court case so that the case can be dismissed.

**5.1.12.27.9 (12-20-2017)**

**Appeals Process and Judicial Review of Certification**

1. Although there is no administrative appeals process for certification of a taxpayer's account, IRS sends taxpayers Notice CP 506C, *Notice of Certification of a Seriously Delinquent Tax Debt*. The notice includes an IRS phone number the taxpayers can call to resolve their tax issues.

**Note:**

Taxpayers who do not agree they owe the tax debt, and are subject to collection action, may have appeal rights as described in IRM 5.1.9.4, *Collection Appeals Program (CAP)*. However, notice of certification of a seriously delinquent tax debt by the IRS, or denial of an application for a passport or renewal by the State Department, are not collection actions that entitle CAP rights.

2. A taxpayer whose debt was certified to the State Department as a seriously delinquent tax debt can file suit in the Tax Court or a District Court of the United States to have the court determine whether the certification is erroneous or the IRS failed to reverse the certification when it was required to do so. If the court determines the certification is erroneous or should have been reversed, it can order the certification reversed.

**Note:**

The taxpayer is not required to file an administrative claim or otherwise contact the IRS to resolve the erroneous certification issue before filing suit in the Tax Court or a District Court of the United States.

3. Counsel will provide notification to the Passport Analyst in an e-mail with the subject heading "Court Ordered Decertification" at *SBSE Passport Group*, when decertification is required as a result of litigation. The e-mail should include:
   - Taxpayer's name
   - Taxpayer's tax identification number
   - Docket number, if available.

**Exhibit 5.1.12-1**

**Suggested Text for Letter to Taxpayer to Apply for Exemption for Religious Reasons**

a. Use Area Office letterhead paper to prepare a letter to notify the taxpayer to apply for exemption.

b. The following table displays suggested content for this letter.

<table>
<thead>
<tr>
<th>Suggested Text for Letter to Taxpayer to Apply for Exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Letter Content</strong></td>
</tr>
<tr>
<td>Name and address of taxpayer</td>
</tr>
<tr>
<td>[Insert appropriate salutation]</td>
</tr>
<tr>
<td>Federal tax law exempts members of certain religious sects or divisions from paying social security and Medicare tax if they file an application that is approved on Form 4029, Application for Exemption from Social Security and Medicare Taxes and Waiver of Benefits.</td>
</tr>
<tr>
<td>We understand you may be eligible for exemption, but we have no record of receiving a Form 4029 from you. If you want to apply for exemption from social security and Medicare tax, please complete the enclosed Form 4029 and return it with a copy of this letter, by the date shown below. An addressed envelope is enclosed for your convenience.</td>
</tr>
<tr>
<td>If we do not receive your application by the date shown, we will have to collect the social security and Medicare tax.</td>
</tr>
<tr>
<td>If you have any questions, please contact me at the telephone number shown above.</td>
</tr>
<tr>
<td>Thank you for your cooperation.</td>
</tr>
<tr>
<td>Sincerely yours,</td>
</tr>
<tr>
<td>[Space for signature]</td>
</tr>
<tr>
<td>Revenue Officer</td>
</tr>
<tr>
<td>Enclosures:</td>
</tr>
<tr>
<td>Form 4029</td>
</tr>
<tr>
<td>Copy of this letter</td>
</tr>
<tr>
<td>Envelope</td>
</tr>
<tr>
<td>Last day for filing Form 4029:</td>
</tr>
</tbody>
</table>

**Exhibit 5.1.12-2**

**Field Collection Processing of Form 5792**

a. Use Form 5792 to request an IDRS manual refund. In Field Collection (FC), the form initiator (i.e., the revenue officer) requesting the manual refund will not complete the entire form because the form initiator will not be the form processor (i.e., the employee inputting CC RFUND). Additionally, Advisory personnel may need to complete certain information on the form.

b. Use Form 3753, in conjunction with Form 5792, if:
   a. the refund is $10 million or more,
   b. a direct deposit is necessary, or
   c. the module(s) is(are) not on IDRS.

c. Follow these instructions to properly prepare Form 5792:
   a. Prepare Form 5792 in triplicate.
   b. Complete each block on Form 5792 carefully and ensure all of the entries are legible.

**Note:**
Accounting will reject Form 5792 if the document contains any alterations such as white out, strike through or correction tape. See IRM 21.4.4.5.1, Monitoring Manual Refunds, for controlling and monitoring requirements.

Follow these line-by-line instructions:

**Section I — Account Information**

a. **Block 1:** Enter the Taxpayer Identification Number (TIN) and File Source of the account from which the refund will be issued.

b. **Block 2:** Enter the Master File Tax Code (MFT).

c. **Block 3:** Enter the tax period as YYYYMM. Exception: period ending for MFT 52 is always "000000".

d. **Block 4:** Enter the plan/report number, applicable for MFTs 46, 74 and 76.

e. **Block 5:** Enter the name control.

f. **Block 6:** Leave blank. Campus personnel will enter the TC 840 amount (overpayment, plus allowable interest).

g. **Block 7:** Leave blank. Campus personnel will enter the TC 770 amount (allowable interest). If no interest is being computed, campus personnel will enter "0" or "00."

h. **Block 8:** Enter the overpayment amount, (i.e., the amount being refunded, less allowable interest).

i. **Block 9:** Enter the appropriate line number; follow these steps to determine the line number:
   - See Exhibit 12 in IRM 2.4.20, Command Codes RFUNB and REFAP
   - Locate the MFT code for the applicable form number (i.e., Form 1040, 941, etc.) that corresponds to the MFT code from Block 2.
   - Locate the row that describes the reason for the refund in the columns entitled:
     - "Type of Refund"
     - "Description and Transaction Codes"
   - Use "Type of Refund" = "Other" when requesting a manual refund of levy proceeds.

j. **Block 10:** Interest indicator must be entered.
   - Use an "N" for normal interest when interest is payable.
   - Use a "0" (zero) for no interest.
   - Use an "R" for restricted interest.

**Note:**
When requesting a manual refund of levy proceeds there is no interest paid.

**Note:**
If interest will be paid, you must also enter an interest "from" date in Section III. See IRM 20.2, Interest, for interest computations.

**Note:**
Revocation or Denial of Passport in Case of Certain Unpaid Taxes

Alert

The IRS began sending certifications of unpaid tax debt to the State Department in February 2018. The content presented here is for informational purposes only.

If you have seriously delinquent tax debt, IRC § 7345 authorizes the IRS to certify that debt to the State Department for action. The State Department generally will not issue a passport to you after receiving certification from the IRS.

- Certification Of Individuals With Seriously Delinquent Tax Debt
- Annual Adjustment For Inflation
- Taxpayer Notification - Notice CP 508C
- Reversal Of Certification - Notice CP 508R
- Judicial Review Of Certification
- Payment Of Taxes
- Passport Status
- Travel

Upon receiving certification, the State Department shall deny your passport application and/or may revoke your current passport. If your passport application is denied or your passport revoked and you are overseas, the State Department may issue you a limited validity passport good only for direct return to the United States.

Certification Of Individuals With Seriously Delinquent Tax Debt

Seriously delinquent tax debt is an individual’s unpaid, legally enforceable federal tax debt totaling more than $51,000 (including interest and penalties) for which a:

- Notice of federal tax lien has been filed and all administrative remedies under IRC § 6320 have lapsed or been exhausted or
- Levy has been issued

Seriously delinquent tax debt is limited to liabilities incurred under Title 26 of the United States Code and does not include debts collected by the IRS such as the FBAR Penalty and Child Support.

Some tax debt is not included in determining seriously delinquent tax debt even if it meets the above criteria. It includes tax debt:

- Being paid timely with an IRS-approved installment agreement

Being paid timely with an offer in compromise accepted by the IRS, or a settlement agreement entered with the Justice Department.
For which a collection due process hearing is timely requested regarding a levy to collect the debt.
For which collection has been suspended because a request for innocent spouse relief under IRC § 6015 has been made.

Additionally, a passport won't be at risk under this program for any taxpayer:

- Who is in bankruptcy.
- Who is identified by the IRS as a victim of tax-related identity theft.
- Whose account the IRS has determined is currently not collectible due to hardship.
- Who is located within a federally declared disaster area.
- Who has a request pending with the IRS for an installment agreement.
- Who has a pending offer in compromise with the IRS.
- Who has an IRS accepted adjustment that will satisfy the debt in full.

Certification will be postponed while an individual is serving in a designated combat zone or participating in a contingency operation.

Before denying a passport, the State Department will hold your application for 90 days to allow you to:

- Resolve any erroneous certification issues.
- Make full payment of the tax debt.
- Enter a satisfactory payment arrangement with the IRS.

Annual Adjustment For Inflation

The $51,000 threshold is indexed yearly for inflation.

Under new Code Section 7345(f), in the case of a calendar year beginning after 2016, the dollar amount in new Code Section 7345 shall be increased by an amount equal to (1) such dollar amount, multiplied by (2) the cost-of-living adjustment determined under Code Section 1(f)(3) for the calendar year, determined by substituting "calendar year 2015" for "calendar year 1992" in Code Section 1(f)(3)(B). If any amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000.

Taxpayer Notification - Notice CP 508C

The IRS is required to notify you in writing at the time the IRS certifies seriously delinquent tax debt to the State Department. The IRS is also required to notify you in writing at the time it reverses certification. The IRS will send written notice by regular mail to your last known address.

Reversal Of Certification - Notice CP 508R

The IRS will reverse a certification when:
- The tax debt is fully satisfied or becomes legally unenforceable.
- The tax debt is no longer seriously delinquent.
- The certification is erroneous.

The IRS will make this reversal within 30 days and provide notification to the State Department as soon as practicable.

A previously certified debt is no longer seriously delinquent when:

• You and the IRS enter into an installment agreement allowing you to pay the debt over time.
• The IRS accepts an offer in compromise to satisfy the debt.
• The Justice Department enters into a settlement agreement to satisfy the debt.
• Collection is suspended because you request innocent spouse relief under IRC § 6015.
• You make a timely request for a collection due process hearing regarding a levy to collect the debt.

The IRS will not reverse certification where a taxpayer requests a collection due process hearing or innocent spouse relief on a debt that is not the basis of the certification. Also, the IRS will not reverse the certification because the taxpayer pays the debt below $50,000.

Judicial Review Of Certification

The State Department is held harmless in these matters and cannot be sued for any erroneous notification or failed decertification under IRC § 7345.

If the IRS certified your debt to the State Department, you can file suit in the U.S. Tax Court or a U.S. District Court to have the court determine whether the certification is erroneous or the IRS failed to reverse the certification when it was required to do so. If the court determines the certification is erroneous or should be reversed, it can order the IRS to notify the State Department that the certification was in error.

IRC § 7345 does not provide the court authority to release a lien or levy or award money damages in a suit to determine whether a certification is erroneous. You are not required to file an administrative claim or otherwise contact the IRS to resolve the erroneous certification issue before filing suit in the U.S. Tax Court or a U.S. District Court.

Payment Of Taxes

If you can’t pay the full amount you owe, you can make alternative payment arrangements such as an installment agreement or an offer in compromise to have your certification reversed.

If you disagree with the tax amount or the certification was made in error, you should contact the phone number listed on Notice CP 508C: 1-866-519-4965 (International callers: 1-267-941-1004). If you’ve already paid the tax debt, please send proof of that payment to the address on the Notice CP 508C.

If you recently filed your tax return for the current year and expect a refund, the IRS will apply the refund to the debt and if the refund is sufficient to satisfy your seriously delinquent tax debt, the account is considered fully paid.

Passport Status

If your U.S. passport application is denied or your U.S. passport is revoked, the State Department will notify you in writing.

If you need your U.S. passport to keep your job, once your seriously delinquent tax debt is certified, you must fully pay the balance, or make an alternative payment arrangement to have your certification reversed.

Once you’ve resolved your tax problem with the IRS, the IRS will reverse the certification within 30 days of resolution of the issue and provide notification to the State Department as soon as practicable.
Travel

If you’re leaving in a few days for international travel, need to resolve passport issues and have a pending application for a U.S. passport, you should call the phone number listed on Notice CP 508C - If you already have a U.S. passport, you can use your passport until you’re notified by the State Department that it has been revoked.

If your passport is cancelled or revoked, after you’re certified, you must resolve the tax debt by paying the debt in full, making alternative payment arrangements or showing that the certification is erroneous.

The IRS will reverse your certification within 30 days of the date the tax debt is resolved and provide notification to the State Department as soon as practicable.

Rate the Small Business and Self-Employed Website
Internal Revenue Bulletin: 2018-3

January 16, 2018

Highlights of This Issue

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

Administrative

Notice 2018-01 Notice 2018-01

This notice provides guidance for implementation of new IRC 7345, added by Section 32101 of Fixing America's Surface Transportation (FAST) Act. This legislation requires the IRS to notify the Department of State of taxpayers certified to have "seriously delinquent tax debt." Upon receipt of section 7345 certification, the State Department is generally required to deny a passport application for such individuals and may also revoke or limit passports previously issued to such individuals. The notice also describes exceptions to certification and taxpayer remedies.

Administrative & Special Announcement

Notice 2018-06 Notice 2018-06

This notice extends the due dates for certain 2017 information reporting requirements for insurers, self-insuring employers, and certain other providers of minimum essential coverage under section 6055 and for applicable large employers under section 6056. Specifically, this notice extends the due date for furnishing to individuals the 2017 Form 1095-B, Health Coverage, and the 2017 Form 1095-C, Employer-Provided Health Insurance Offer and Coverage, from January 31, 2018, to March 2, 2018. This notice also extends transitional good-faith relief from section 6721 and 6722 penalties to the 2017 information reporting requirements under sections 6055 and 6056.

Preface

The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly.
It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:


Part II.—Treaties and Tax Legislation. This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous. To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest. This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

Part III. Administrative, Procedural, and Miscellaneous

Notice 2018-01

Revocation, Limitation, or Denial of Passport in Case of Certain Tax Delinquencies

This notice provides taxpayers with information about the implementation of new section 7345 of the Internal Revenue Code (Code), enacted by Section 32101 of Fixing America's Surface Transportation (FAST) Act, Pub. L. 114-94, on December 4, 2015. Section 32101(a) of the FAST Act added new Code section 7345, which requires the Department of the Treasury (Treasury) to notify the Department of State (State Department) if a certification
is made that an individual has a "seriously delinquent tax debt." Such certification or a reversal of such certification may only be made by the Commissioner of Internal Revenue, the Deputy Commissioner for Services and Enforcement of the Internal Revenue Service (IRS), or the Commissioner of an operating division of the IRS (collectively, Commissioner or specified delegate). Upon receipt of a section 7345 certification, section 32101(e) of the FAST Act provides that the State Department will generally deny an application for issuance or renewal of a passport from such individual, and may revoke or limit a passport previously issued to such individual. The IRS and State Department will begin implementation of these provisions in January of 2018.

I. Background

Section 7345(a) provides that if Treasury receives certification by the Commissioner that an individual has a seriously delinquent tax debt, such certification must be transmitted to the State Department for action with respect to denial, revocation, or limitation of a passport.

Under section 7345(b)(1), a "seriously delinquent tax debt" is an unpaid, legally enforceable, and assessed federal tax liability of an individual, greater than $50,000, and for which:

- A notice of federal tax lien has been filed under section 6323, and the taxpayer’s right to a hearing under section 6320 has been exhausted or lapsed; or
- A levy has been issued under section 6331.

Pursuant to section 7345(f), the $50,000 amount is adjusted for inflation each calendar year beginning after 2016.

The $50,000 federal tax liability threshold is calculated by aggregating the total amount of all current tax liabilities for all taxable years and periods meeting the above criteria (including penalties and interest) assessed against an individual.

Section 7345(b)(2) provides that a seriously delinquent tax debt does not include the following:

- A debt that is being timely paid under an IRS-approved installment agreement under section 6159;
- A debt that is being timely paid under an offer in compromise accepted by the IRS under section 7122;
- A debt that is being timely paid under the terms of a settlement agreement with the Department of Justice under section 7122;
- A debt in connection with a levy for which collection is suspended because of a request for a due process hearing (or because such a request is pending) under section 6330; and
- A debt for which collection is suspended because the individual made an innocent spouse election (section 6015(b) or (c)) or the individual requested innocent spouse relief (section 6015(f)).
Section 7345(c)(1) requires the IRS to notify the State Department if the Commissioner reverses the certification because it is erroneous or if the debt with respect to such certification is fully satisfied, becomes unenforceable, or ceases to be a seriously delinquent tax debt. Upon receipt of a notice of the reversal of the certification from the IRS under section 7345(c), section 32101(g) of the FAST Act requires the State Department to remove the certification with respect to such debt from the individual's record at the State Department.

Section 7345(c)(2) provides the timing for IRS to notify the State Department about a reversal. In the case of a debt that has been fully satisfied or has become legally unenforceable such as when the collection statute of limitations has run under section 6502, section 7345(c)(2)(A) provides that notification under section 7345(c)(1) must be made not later than the date required for issuing the certificate of release of lien with respect to such debt under section 6325(a) (30 days after the day on which the liability is fully satisfied or legally unenforceable or following acceptance of a bond in full payment of the liability). In the case of an individual who makes an election under section 6015(b) or (c) or requests relief under section 6015(f), section 7345(c)(2)(B) provides that notification under section 7345(c)(1) must be made not later than 30 days after such election or request. In the case of an installment agreement under section 6159 or an offer in compromise under section 7122, section 7345(c)(2)(C) provides that notification under section 7345(c)(1) must be made not later than 30 days after such agreement is entered into or such offer is accepted by the IRS. Finally, in the case of a certification found to be erroneous, section 7345(c)(2)(D) provides that notification under section 7345(c)(1) must be made as soon as practicable after such finding. In all other cases, section 7345(c) provides that such notification shall be made as soon as practicable.

Section 7345(d) requires the IRS to contemporaneously notify an individual when he or she is the subject of a certification or reversal of a certification. The notice must include a description in simple nontechnical terms of the right to bring civil suit under section 7345(e). This notice is the Notice CP508C, "Notice of certification of your seriously delinquent federal tax debt to the State Department."

Section 7345(e) provides that an individual has the right to judicial review of whether a certification was erroneous or whether the IRS failed to reverse a certification in either a United States district court or the United States Tax Court. If a court determines that the certification was erroneous, the court may order the IRS to notify the Secretary of State that the certification was erroneous.

Section 7345(g) provides that the certification or reversal of a certification may only be delegated by the Commissioner of Internal Revenue to the Deputy Commissioner for Services and Enforcement, or the Commissioner of an operating division, of the IRS.

In addition, section 7508(a)(3) was added to the Code by section 32101(d) of the FAST Act to provide that certification of a seriously delinquent tax debt under section 7345 will be postponed while an individual is serving in an area designated as a combat zone or participating in a contingency operation.

In addition to the statutory exceptions set forth in section 7345(b)(2) and section 7508(a), the Internal Revenue Manual (IRM) will be updated to include information about circumstances under which a tax debt will not be subject to the certification process. The IRS will continue to monitor the certification process after implementation and may update the IRM if necessary to meet the requirements of the program.

II. Discussion
if an exception set forth in section 7345(b)(2) applies, the State Department will not be notified that the taxpayer has a seriously delinquent tax debt and therefore section 32101(e) of the FAST Act, regarding denial of a passport application or revocation of a passport, will not apply with respect to such taxpayer. In addition, if after the State Department has been notified of a seriously delinquent tax debt certified under section 7345 the Commissioner or specified delegate determines that the tax debt should not have been certified (for instance, if a statutory exclusion or one of the circumstances set forth in the IRM applies), the IRS will notify the State Department in accordance with section 7345(c) that the certification has been reversed. The reversal notification will be made as soon as practicable after the determination.

Upon receipt of a notice from the IRS under section 7345(c) that the certification has been reversed, section 32101(g) of the FAST Act requires the State Department to remove the certification from the individual’s record with respect to such debt. The certification of a seriously delinquent tax debt to the State Department will be reversed if the tax debt no longer qualifies as seriously delinquent under section 7345(b)(2). Therefore, taxpayers notified that certification of their seriously delinquent tax debt has been transmitted to the State Department should consider paying the tax owed in full, or entering into an installment agreement under section 6159 or an offer in compromise under section 7122 with respect to the debt. More information on these payment options can be found at [https://www.irs.gov/businesses/small-businesses-self-employed/revocation-or-denial-of-passport-in-case-of-certain-unpaid-taxes].

When a certified taxpayer applies for a passport, the State Department, in general, will provide the applicant with 90 days to resolve their tax delinquency (such as by making full payment, entering into an installment agreement under section 6159, or IRS acceptance of an offer in compromise under section 7122) before denying the application. If a taxpayer needs their passport to travel within those 90 days, the taxpayer must contact the IRS and resolve the matter within 45 days from the date of application so that the IRS has adequate time to notify the State Department.

Generally, the sole remedy for a taxpayer who believes that a certification is erroneous, or that the Commissioner or specified delegate incorrectly failed to reverse a certification because the tax debt is either fully satisfied or ceases to be a seriously delinquent tax debt by reason of section 7345(b)(2), is to file a civil action in court under section 7345(e). The taxpayer may not go to IRS Appeals to challenge the certification or the decision by the Commissioner or specified delegate not to reverse a certification. However, the taxpayer may contact the phone number in the Notice CP508C to request reversal of the certification if the taxpayer believes that the certification is erroneous.

**DRAFTING INFORMATION**

The principal author of this notice is Robin Ferguson of the Office of the Associate Chief Counsel (Procedure and Administration). For further information about this Notice contact Robin Ferguson at (202) 317-6832 (not a toll-free number).

**Notice 2018–06**

**EXTENSION OF DUE DATE FOR FURNISHING STATEMENTS AND OF GOOD-FAITH TRANSITION RELIEF UNDER I.R.C. SECTIONS 6721 AND 6722 FOR REPORTING REQUIRED BY I.R.C. SECTIONS 6055 AND 6056 FOR 2017**

**PURPOSE**
Passport Actions Under Section 7345

Purpose

This notice provides guidance to Chief Counsel attorneys handling passport actions under section 7345 of the Internal Revenue Code. Given that this is a new area of litigation and there are still many unanswered questions, these cases must be coordinated with Procedure & Administration, Branches 3 and 4.

Background

The Fixing America's Surface Transportation Act requires the State Department to deny a passport application by, and authorizes it to revoke the passport of, any individual that the Internal Revenue Service certifies as having a "seriously delinquent tax debt." See Fixing America's Surface Transportation Act, Pub. L. No. 114-94, § 32101(e), 129 Stat. 1511, 1732 (2015). Section 7345 of the Code governs the Service's certification process and provides taxpayers a limited right to judicial review.

Section 7345(b)(1) sets forth the elements of a "seriously delinquent tax debt." First, a "seriously delinquent tax debt" is an unpaid, legally enforceable federal tax liability of an individual. I.R.C. § 7345(b)(1). The term does not include non-tax liabilities collected by the Service such as criminal restitution, FBAR penalties, and past-due support payments collectible under sections 6305(a) and 6432(c). Second, the liability must be assessed. I.R.C. § 7345(b)(1)(A). Third, the liability must exceed $50,000. I.R.C. § 7345(b)(1)(B). This requirement is met if the total amount of all tax liabilities assessed against an individual (including assessed penalties and interest) exceeds the dollar-amount threshold. Finally, the Service must have filed a notice of federal tax lien under section 6323 (with the taxpayer's collection-due-process (CDP) rights under section 6320 having lapsed or been exhausted) or made a levy under section 6331 with respect to the liability. I.R.C. § 7345(b)(1)(C).

Section 7345(b)(2) lists two exceptions to the term "seriously delinquent tax debt": a liability being paid in a timely manner pursuant to an installment agreement under section 6159 or an

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1 This amount is indexed for inflation each year. I.R.C. § 7345(f). For 2018, the amount is $51,000. Rev. Proc. 2017-58. For years after 2018, the amount will be listed in the applicable annual revenue procedure that sets forth inflation-adjusted amounts in the Internal Revenue Code.

2 A liability will not be considered a seriously delinquent tax debt based on a levy unless pre- or post-levy CDP rights were provided regarding the levy.
agreement under section 7122\(^3\) and a liability for which collection has been suspended because the taxpayer requested either a CDP hearing under section 6330 or innocent-spouse relief under section 6015. In addition to these statutory exceptions, the Service is exercising discretion to exclude additional categories of liabilities from certification. The current categories of discretionary exclusions are listed in sections 5.1.12.27.4 and 5.19.1.5.19.4 of the Internal Revenue Manual. The categories are subject to change to ensure the integrity and effectiveness of the certification program.

The Service will rely on automated systems to identify every module (electronic record of tax liability) on an individual’s account with an unpaid assessed tax liability that is not statutorily excepted from the definition of seriously delinquent tax debt or otherwise in a category excluded from certification. Once all eligible modules have been identified, the systems will aggregate the amount of unpaid liabilities. If the total is more than the statutory threshold, the taxpayer will be identified as having a seriously delinquent tax debt, and a Transaction Code (TC) 971 Action Code (AC) 641 will post to each module.

The SBSE Commissioner will certify that the identified individual's account is seriously delinquent tax debt. The Service, under section 7508(a)(3), will postpone the certification of taxpayers serving in a combat zone or contingency operation. The Service will send a list of all certified individuals to the State Department. Once it has received notice from the Service, the State Department will issue a new or renewed passport to a certified individual and may revoke a previously issued passport, except for return travel to the United States. FAST Act § 32101(e)(1)(A) and (2). Contemporaneously with the certification, the Service will notify individuals of their certification by sending CP508C notice by regular mail. The CP508C notice will list the tax liabilities giving rise to the certification by taxpayer identification number, tax period, and type, and will inform the individual of the right to seek judicial review in a federal district court or the Tax Court.

Section 7345(c) requires the Service to reverse a certification in three circumstances: (1) if the certification is found to be erroneous, (2) if the seriously delinquent tax debt is fully satisfied\(^4\) (or the liability that composed it becomes unenforceable), or (3) if the debt on which the certification is based ceases to be a seriously delinquent tax debt due to an exception set forth in section 7345(b)(2).

The Service will also reverse a certification when the debt on which it is based falls into one of the discretionary exclusions, either entirely or in combination with the circumstances listed in section 7345(c), or the taxpayer enters a combat zone or participates in a contingency operation within the meaning of section 7508(a).

When a certified module meets the criteria for reversal, a TC 972 AC 641 will be posted to it. But a certification will not be reversed until all modules covered by it have been fully satisfied or otherwise meet the criteria for reversal. Once all modules meet the criteria for reversal and have TC 972 AC 641 posted to them, the Service will contemporaneously notify the taxpayer and the State Department that the certification is reversed. The Service will notify the taxpayer by sending a CP508R notice by regular mail.

\(^3\) An agreement under section 7122 may include an offer-in-compromise accepted by the Service or a settlement reached between the Department of Justice and the taxpayer.

\(^4\) Partial payment of the aggregate tax liabilities to an amount below the threshold does not qualify the taxpayer to have the certification reversed.
Judicial Review of Certifications

Section 7345(e)(1) provides that any individual who has been certified may bring a civil action to determine whether the certification was erroneous or should have been reversed. The action may be filed in either a federal district court or the Tax Court. If the court determines that a certification was erroneous or should be reversed, it may order the Service to notify the State Department.

The Tax Court has proposed adding a new Title XXXIV (inclusive of Rules 350 through 354) to its Rules of Practice and Procedure that sets forth procedures for certification actions. In general, the proposed rules describe the jurisdiction of the court, specify the title and content of a petition, require the filing of an answer, and state when the case is deemed at issue. The proposed rules also require the petitioner to attach a copy of the CP508C to the petition. Docket numbers ending in "P" will denote section 7345 cases.

Three issues that we expect petitioners will raise in challenges to certification and that are not explicitly addressed by the Code are challenges to the underlying liabilities, the period of limitations for bringing an action, and the scope and standard of review in certification actions. The following paragraphs address these three issues.

Section 7345 does not provide for judicial review of the amount of the liability that constitutes a seriously delinquent tax debt. Unlike certain provisions of the Code and Title 28, section 7345 does not waive the Government's immunity to liability challenges. It is well established that the United States cannot be sued except in strict accordance with the terms of a specific waiver of sovereign immunity granted by Congress. See United States v. Dalm, 494 U.S. 596, 608 (1990). A liability challenge would also have the effect of restraining the collection of an assessed tax because a liability determination in a section 7345 proceeding would bind the Service in other litigation. Section 7421 prohibits any suit that restrains the assessment or collection of any tax except as provided in specified sections of the Code. Section 7345 is not one of those sections.

Section 7345(e) does not specify a period of limitations within which an individual may bring a certification action. In the absence of a specific statutory limitation, the general six-year limitations period provided by 28 U.S.C. § 2401(a) applies to these cases. Cf. Sierra Club v. Penfold, 857 F.2d 1307, 1315 (9th Cir.1988) (applying the general limitations period provided by section 2401(a) to an action brought under a statute—the Administrative Procedure Act—that does not contain a specific limitations period). Individuals will have six years from the issuance of a certification notice to bring an action to determine whether a certification was erroneous when made or six years from the date that grounds for reversal existed to bring an action challenging whether the Service failed to reverse a certification.

Section 7345(e) does not specify the scope or standard of review applicable to certification actions. In situations where Congress has simply provided for review, without setting any standards to be used or procedures to be followed, review is confined to the administrative record, and "no de novo proceeding may be held." United States v. Carlo Bianchi & Co., 373 U.S. 709, 715 (1963). The Service bases certifications and reversals of certifications on whether the tax modules in individuals' accounts satisfy the statutory criteria in section 7345 or fall into the discretionary exclusion categories listed in the Internal Revenue Manual. Judicial review is.

If an individual files actions in both federal district court and the Tax Court, the court in which the first action was filed shall have sole jurisdiction. I.R.C. §§ 7345(e)(1).
thus logically limited to the computerized records of those modules. When review is confined to the administrative record, the standard of review is whether agency action was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). Accordingly, review should be limited to the Service's records and whether the certification or failure to reverse the certification was "arbitrary, capricious, an abuse of discretion; or otherwise not in accordance with law."

For actions arising in the federal district courts, 28 U.S.C. § 1294 generally places venue in the court of appeals for the circuit embracing the district in which an action is brought. For certification actions arising in Tax Court, however, section 7482(b)(1) places appellate venue in the U.S. Court of Appeals for the District of Columbia Circuit because none of that section's specific venue provisions apply.

**Litigating Certification Actions in the Tax Court**

The following sections provide instructions to Counsel attorney for handling certain procedural aspects of certification actions.

1. **Answers**

As in other Tax Court actions, and consistent with proposed Tax Court Rule 353, the title of the answer to a petition should be "Answer."

The following is recommended language for the prayer for relief when the taxpayer is not entitled to relief:

WHEREFORE, it is prayed that the relief sought in the Petition for Certification or Failure to Reverse Certification Action Under Code Section 7345(e) be denied.

If the taxpayer does not attach a CP508C to the petition, a copy of the CP508C, which can be requested from the Service's CDP coordinators, should be included with the answer. Before filing the answer the assigned attorney must verify that the petitioner's certification has not been reversed.

Consistent with Notice 2018-01, after the assigned attorney files the answer, the attorney will not refer the docketed case to the Office of Appeals, 2018-3 I.R.B. 299. Appeals consideration of these cases under Rev. Proc. 2016-22 will not occur given the automated nature of the Service's process for identifying modules and certifying individuals with seriously delinquent tax debts and because the determinations will have been verified by the assigned attorneys in answering the cases.

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8 The administrative record for these actions will generally be shown by Form 4340 transcripts for each of the modules that form the basis of a certification.
2. Motions

a. Motion to Dismiss for Lack of Jurisdiction

A motion to dismiss for lack of jurisdiction should be filed when the Service has not certified the taxpayer as having a seriously delinquent tax debt or when the taxpayer’s certification was reversed before the petition was filed.\(^7\)

In a case where the taxpayer was never certified, the motion should explain that, based on a diligent search of the Service’s records, there is no record of the taxpayer’s certification. In a case in which the taxpayer’s certification was reversed before the petition was filed, the motion should explain that the certification was reversed, and a Form 4340 for each module upon which the certification was based should be attached.

b. Motion to Change Caption

If the taxpayer has been certified as having a seriously delinquent tax debt, but the docket number does not include a “P,” the attorney should consider filing a motion to change caption. This filing will clarify whether the court agrees the case is an action under section 7345(a). The omission of a “P” from the docket number will usually occur when a CP508C is not attached to the petition. A copy of the CP508C should be attached to the motion.

c. Motion to Dismiss for Failure to State a Claim or Motion for Judgment on the Pleadings

As discussed above, certification actions are not the forum for addressing liability issues. If a petition is based solely on a claim that a certification should be reversed because the individual is not substantively liable for the seriously delinquent tax debt, a motion to dismiss for failure to state a claim or a motion for judgment on the pleadings may be appropriate. These motions may also be appropriate in cases in which the petition is solely based on frivolous arguments or requests for monetary damages or other remedies not available under section 7345.

d. Motion for Summary Judgment

Most actions under section 7345(a) should be resolved using a motion for summary judgment. The motion must establish that at the time of the certification each of the statutory elements in section 7345(b)(1) was satisfied, and that none of the statutory exceptions, discretionary exclusions, or section 7508(a) postponement applied. In addition, the motion must establish that none of the conditions requiring reversal of the certification are currently present.

The statutory elements that must be established will appear on the Form 4340 for each module on which the certification was based. Similarly, the absence of a statutory exception, discretionary exclusion, or section 7508(a) postponement at the time of certification and absence of a basis for reversal of the certification at the time of the motion will also appear on the Form 4340. The assigned attorney should therefore obtain these forms as soon as possible.

\(^7\) The assigned attorney must verify that at least one of the tax modules for the liabilities listed on the CP508C contains an unreversed TC 971 AC 641 as of the date the petition was filed. If the transcript for each module lacks a TC 971 AC 641 or shows a reversed TC 971 AC 641, meaning it shows a TC 972 AC 641, before the petition date, the attorney should file a motion to dismiss for lack of jurisdiction.
For additional guidance on preparing the motion for summary judgment, the attorney should follow the procedures in section 35.3.5.3 of the Chief Counsel Directives Manual.

**e. Motion to Dismiss on the Ground of Mootness**

A motion to dismiss on the ground of mootness may be appropriate when (1) during the case, the Service reverses the certification, (2) the assigned attorney concludes the certification was erroneous when made, or (3) the assigned attorney concludes a valid certification should be reversed because the liabilities are no longer a seriously delinquent tax debt. Alternatively, a stipulated decision document, discussed below, may be used if the taxpayer agrees.

**f. Stipulated Decision Documents**

A case may be resolved with a stipulated decision document when the Service erroneously certified a taxpayer, a basis for reversal of a valid certification currently exists, or the taxpayer concedes either that the certification is valid or that there is no basis for reversal. Depending on the circumstances of the case, the decision should state whether the court determines that the certification was erroneous or valid or that the Service failed to reverse the certification.

**Litigating Certification Actions in the District Courts**

As with other actions brought against the United States in federal district court, the Department of Justice will represent the Government in these proceedings. In preparing defense letters for these cases, Chief Counsel attorneys should follow the procedures in CCDM 34.5.1. The Service will provide the information and support needed to prepare the defense letter. The defense letter must classify the case as "standard" rather than "settlement option procedure." CCDM 34.5.1.1.1.

**Coordination of Section 7345(e) cases with the National Office**

Chief Counsel attorneys should contact Branches 3 or 4 in Procedure & Administration with questions about these cases. Additionally, any document to be submitted to the Tax Court, except for answers not making affirmative allegations and motions to change caption, must be reviewed by those branches before filing. The same is true for any defense letters to be sent to the Department of Justice. To assist in the review, the following documents should be submitted with the document being reviewed: (1) petition or complaint; (2) any attachments to the petition or complaint; (3) a copy of the CP508C if not attached to the petition or complaint; and (4) a copy of the Form 4340 for each tax period giving rise to the certification.

Any questions concerning this Notice may be directed to Christopher Jones in Procedure & Administration at (202) 317-3600.

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Kathryn Zuba
Associate Chief Counsel
(Procedure & Administration)

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Before filing the motion, the assigned attorney must verify the posting on each module of a TC 972 AC 641, which signifies reversal of the certification. The attorney must attach as an exhibit to the motion each Form 4340 showing a TC 972 AC 641.
Will Bankruptcy Get Your Passport Back?

February 25, 2014 by Guest Blogger  |  0 Comments

Today, we welcome guest blogger Kenneth C. Wolf. Ken has his own practice in Seattle that focuses on representing individuals with tax debt and resolving that debt through administrative action with the IRS or through bankruptcy. He has written a book on his specialty area, : Wol. Taxes and Bankruptcy: (CCH IntuiConnect Service Online Only) (3d ed. 2014). In 1994 Congress passed the first major set of reforms to the Bankruptcy Code of 1978 but a knew that more reform was necessary. It set up a bankruptcy commission to look into the needed reforms and the reform commission established a tax advisory panel to assist it with the tax aspects of the reforms. Ken served on the tax advisory panel and has continued to be a leading thinker at the intersection of tax and bankruptcy.

He serves in the leadership of the Bankruptcy and Workouts (B&W) Committee of the ABA Tax Section. The ABA Tax Section met in Los Angeles in late January where Ken participated in a B&W Committee panel with Bankruptcy judge Mark Wallace of the Bankruptcy Court for the Central District of California, Santa Ana Division. As part of that panel, he presented information regarding the new passport revocation/ denial rule. I thought this information might be of interest to the blog readers and persuaded Ken to write something for us.

Keith

The Operative Language:

New 11 U.S.C. § 7345(a) authorizes the State Department to deny issuance, revoke, or limit a passport if the IRS certifies to the State Department that an individual has seriously delinquent tax debt (SDTD). The operative verbs in § 7345(a) are deny, revoke and limit. Discretion and revocation are straightforward. Limitation is not as clear. By way of example, FAST Act § 331011 (b) provides a time-limitation clause for return to the United States for citizens whose passports are being revoked.

For certification to occur, there must be SDTD, which is a defined term with two components. Section 7345(b)(1)(A) provides that the tax debt must have been assessed and be legally enforceable before it can be SDTD. (The requirement of assessment means the standard for SDTD is very different from a claim in bankruptcy, which Bankruptcy Code section 101(5) defines broadly. In addition, Section 7345(b)(2)(B)(C) require both an "age" component and a "size" component before tax debt can be SDTD. As to the "age" component, for the assessed and legally enforceable tax debt to be converted into SDTD, the tax liability must have been subject to a notice of federal tax lien (NFTL) and the...
Passports

A Rule by the State Department on 09/02/2016

DOCUMENT DETAILS

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09/02/2016 (https://www.federalregister.gov/documents/2016/09/02)

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Department of State (https://www.federalregister.gov/agencies/state-department)

Dates:
The effective date of this regulation is September 2, 2016.

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22 CFR 51

Agency/Docket Number:
Public Notice: 9678

RIN:
1400-AD97

Document Number:
2016-21087

PUBLISHED DOCUMENT

AGENCY:
State Department.

ACTION:
Final rule.

SUMMARY:

This final rule provides various changes and updates to the Department of State passport rules as a result of the passage of two laws: International Megan's Law to Prevent Child Exploitation and Other Sexual Crimes Through Advanced Notification of Traveling Sex Offenders (IML); and the Fixing America's Surface Transportation Act (FAST Act). The final rule incorporates statutory passport denial and revocation requirements for certain covered sex offenders under the IML; those persons with a seriously delinquent tax debt as defined by the FAST Act, and/or those persons who submit a passport application without a correct and valid Social Security number.

DATES:
The effective date of this regulation is September 2, 2016.

FOR FURTHER INFORMATION CONTACT:
Stephanie Traub, Office of Legal Affairs, Passport Services, (202) 485-6500. Hearing or speech impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:
The Department is amending § 51.60 of subpart E within part 51 of title 22 of the Code of Federal Regulations. The rules incorporate statutory passport denial and revocation requirements as codified at 22 U.S.C. 2774 (https://api.fdsys.gov/link?collection=uscode&title=22&year=mostrecent&section=2774&type=us&link-type=html) for certain individuals who have seriously delinquent tax debt or submit passport applications without correct and valid Social Security numbers. The rules incorporate new provisions for denial and revocation of passport books that do not contain conspicuous identifiers for covered sex offenders as defined in 42 U.S.C. 16935 (https://api.fdsys.gov/link?collection=uscode&title=42&year=mostrecent&section=16935&type=us&link-type=html). The rules provide for denial of passport cards to those same covered sex offenders, as passport cards are not able to contain the unique identifier required by 22 U.S.C. 212 (https://api.fdsys.gov/link?collection=uscode&title=22&year=mostrecent&section=212&type=us&link-type=html).

The new § 51.60(a)(3) requires denial of a passport to an individual who is certified by the Secretary of the Treasury as having a seriously delinquent tax debt as described in 26 U.S.C. 7345 (https://api.fdsys.gov/link?collection=uscode&title=26&year=mostrecent&section=7345&type=us&link-type=html).

The new § 51.60(f) permits denial of a passport to an individual who does not include his or her Social Security number or willfully, intentionally, negligently, or recklessly includes an incorrect or invalid Social Security number on his or her passport application.

The new § 51.60(g) requires denial of a passport card to an individual who is a covered sex offender as described in 42 U.S.C. 16935 (https://api.fdsys.gov/link?collection=uscode&title=42&year=mostrecent&section=16935&type=us&link-type=html).

Regulatory Findings
Administrative Procedure Act

Because this rulemaking implements the Congressional mandates within the FAST Act and IML, the Department is publishing this rulemaking without notice and comment under the "good cause" exemption of 5 U.S.C. 553 (https://api.fdsys.gov/link?collection=usecode&title=5&year=mostrecent&section=553&type=use&link-type=html)(b). The Department believes that public comment on this rulemaking would be unnecessary, impractical, and contrary to the public interest. In addition, for the same reasons, the effective date for this rulemaking is the date of publication in accordance with the "good cause" provision of 5 U.S.C. 553 (https://api.fdsys.gov/link?collection=usecode&title=5&year=mostrecent&section=553&type=use&link-type=html)(d)(3).

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605 (https://api.fdsys.gov/link?collection=usecode&title=5&year=mostrecent&section=605&type=use&link-type=html)(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based companies to compete with foreign-based companies in domestic and export markets.

Executive Orders 12866 and 13563

The Department of State does not consider this rule to be an economically significant regulatory action under Executive Order 12866, Regulatory Planning and Review. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in both Executive Order 12866 and Executive Order 13563. (/executive-order/13563) and certifies that the benefits of this regulation outweigh any cost to the public.

Executive Order 13132 (/executive-order/13132)

This regulation will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132. (/executive-order/13132) it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.

Executive Order 13175 (/executive-order/13175)

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on tribal governments, and will not pre-empt tribal law. Accordingly, the requirements of Executive Order 13175 (/executive-order/13175) do not apply to this rulemaking.
Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35. Prior to the passage of the FAST Act, passport applicants were already asked to provide their Social Security numbers to obtain or renew passports. With respect to the IML requirements, the applicant does not report his or her status as a covered sex offender to the Department during the application process; rather, the Department obtains that information from other government sources. Therefore, this rulemaking imposes no additional burden on the applicant.

List of Subjects in 22 CFR Part 51 (/select-citation/2016/09/02/22-CFR-51)

- Passports

Accordingly, for the reasons set forth in the preamble, the Department has amended 22 CFR part 51 (/select-citation/2016/09/02/22-CFR-51) as follows:

PART 51—PASSPORTS

1. The authority citation for part 51 is revised to read as follows:


2. Amend § 51.60 by adding paragraphs (a)(3) and (4), (f), and (g) to read as follows:

§ 51.60 Denial and restriction of passports.

(a) **

(g) The applicant is certified by the Secretary of the Treasury as having a seriously delinquent tax debt as described in 26 U.S.C. 7345 (https://api.fdsys.gov/link?collection=usc&title=26&year=mostrecent&section=7345&type=usc&link-type=html).

(b) The applicant is a covered sex offender as defined in 42 U.S.C. 16935 (https://api.fdsys.gov/link?collection=usc&title=42&year=mostrecent&section=16935&type=usc&link-type=html)a, unless the passport, no matter the type, contains the conspicuous identifier placed by the Department as required by 22 U.S.C. 212 (https://api.fdsys.gov/link?collection=usc&title=22&year=mostrecent&section=212&type=usc&link-type=html)b.

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(f) The Department may refuse to issue a passport to an applicant who fails to provide his or her Social Security account number on his or her passport application or who willfully, intentionally, negligently, or recklessly includes an incorrect or invalid Social Security account number.

(g) The Department shall not issue a passport card to an applicant who is a covered sex offender as defined in 42 U.S.C. 16935 (https://api.fdsys.gov/link?collection=usc&title=42&year=mostrecent&section=16935&type=usc&link-type=html)a.


David T. Donahue,

Acting Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 2016-21087 /a/2016-21087] Filed 9-1-16; 8:45 am]

BILLING CODE 4710-13-P
The IRS Collection Process
Publication 594

This publication provides a general description of the IRS collection process. The collection process is a series of actions that the IRS can take to collect the taxes you owe. If you don't voluntarily pay them, the collection process will begin if you don't make your required payments in full and on time, after receiving your bill.

Please keep in mind that this publication is for information only, and may not account for every tax collection scenario. It's also a technical analysis of tax law and does not include a detailed explanation of your rights. For an explanation of your rights, please see Publication 1, Your Rights as a Taxpayer.

If you have questions or need help
Please visit IRS.gov for your tax needs. You can get answers to your tax questions from the Interactive Tax Assistant IRS.gov/ITA. You can also check IRS.gov/Forms-Pubs to find all the IRS tax forms and publications mentioned here and the IRS video portal at www.irsvideos.gov to view informational videos on a variety of topics in this publication.

You can also call the number on your bill or visit your local IRS office for assistance. If you don't have a bill, please go to the IRS.gov/payments page and click on Finding out how much you owe for more information or 1-800-829-1040 (individuals) or 1-800-829-4933 (businesses). Before visiting your local IRS office, check the Services Provided and the hours of operation at www.irs.gov/localcontacts. Use the Office Locator link by entering your zip code to locate the nearest office which will give you the office address, hours of operation, and services provided.

Overview: Filing a tax return, billing, and collection
General steps from billing to collection
What you should do when you get an IRS bill
Who to contact for help
Ways to pay your taxes
Options for paying in full
Options if you can't pay in full now
If you are unable to pay at this time
How long we have to collect taxes
How to appeal an IRS decision
If you don't pay on time: Understanding collection actions
Collection actions in detail
Federal tax lien
Notice of Federal Tax Lien
Law: A seizure of property
Summons: Used to secure information
IRS Actions Affecting Passports
Information for Taxpayers assigned to a Private Collection Agency
Information for employers: Collection of employment tax
Additional information
Overview: Filing a tax return, billing, and collection

After you file your tax return and/or make a payment, we process the information we receive, record the amount in our records, and issue you a bill for the amount due, including any penalties and interest. If you don’t pay or make arrangements to do so, we may take action to collect the debt. Our goal is to work with you to resolve the debt before we take collection actions. If you fail to pay the amount due, we may take action to collect the debt. Our goal is to work with you to resolve the debt before we take collection actions. If you fail to pay the amount due, we may take action to collect the debt.

General steps from billing to collection

1. You file your tax return. Most returns are filed annually by April 15th or quarterly by businesses with employees.

2. If you owe taxes, we will send you a notice. This is your final bill for tax due. Based on your return, we will calculate how much tax you owe, plus any interest and penalties.

3. If you don’t pay your first bill, we will send you at least one more bill. To minimize interest and penalties, we continue to accrue until you’ve paid your full amount due.

What you should do when you get an IRS bill

If you agree with the information on the bill, pay the full amount due as soon as possible. If you need more time to pay, you may qualify for an installment agreement or offer in compromise. These payment plans allow you to pay the amount owed over a period of time, usually up to 60 days, and avoid penalties and interest.

If you disagree with the information on the bill, call the number on the bill or visit your local IRS office. Be sure to have a copy of your return with you, as well as any records related to the item in question. You may also be able to find the number of an IRS employee who can help you resolve the issue.

Who to contact for help

The Internal Revenue Service provides a toll-free number for taxpayers. You can contact them at 1-800-829-1040. You can also find information on the IRS website or by calling your local IRS office to speak with an IRS representative.

Taxpayer Advocate Service

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that helps taxpayers understand their rights and protects them under the Taxpayer Bill of Rights. The Taxpayer Bill of Rights includes the right to an individual who has filed a claim and has not been paid by the IRS. TAS helps taxpayers who are experiencing financial difficulties, facing an immediate threat of an adverse action, or who have been unable to resolve their problems with the IRS.

Ways to pay your taxes

Electronic payments

We offer several electronic payment options. You can pay online using a credit card or debit card. You can also set up a direct debit with the IRS through its official website, which allows you to pay your taxes conveniently and securely.

Debit or credit card

You can pay your taxes by debit or credit card. You can also use a credit card in conjunction with the IRS Direct Pay service, which allows you to pay your taxes directly from your bank account.

IRS2Go

IRS2Go is a mobile application that allows you to pay your taxes using your smartphone. You can also download the IRS2Go app to your phone to pay your taxes directly from your bank account.

Electronic Federal Tax Payment System

The Electronic Federal Tax Payment System (EFTPS) is a tax payment service that allows you to pay your taxes electronically from your bank account. To use EFTPS, you must have a bank account that accepts electronic payments. You can also pay your taxes by phone or online. To enroll, visit the IRS website or call 1-800-829-1040.
Cash

Taxpayers without bank accounts or if cash is their only option can pay using the new PayNearMe option. Because PayNearMe involves a three-step process, the IRS urges taxpayers choosing the option to start the process well ahead of the due date to avoid interest and penalty charges. The IRS offers this option in cooperation with Official Payment Companies and participating 7-Eleven stores in 24 states including answers to frequently asked questions, at IRS.gov/paynearme.

Pay by mail or visit us in person at a local IRS office.

You can mail a check to us at the address listed on your notice or bring it to your local IRS office. Make checks payable to the Department of the Treasury.

Options if you can’t pay in full now

Apply for an Installment Agreement

An Installment Agreement with the IRS means that you will be allowed to make smaller periodic payments over time if you can’t pay the full amount at once. A setup fee applies to all installment agreements.

There are several ways to apply for an Installment Agreement:

- **Online**, using the Online Payment Agreement application at www.irs.gov/OPA. You can apply online for a reduced setup fee if the total combined balance of federal income tax, penalty, and interest you owe is $50,000 or less. Short-term payment agreements of 120 days or less and monthly payment plans are available. If you own a business and owe $25,000 or less in combined payroll taxes, penalty and interest for the current and prior calendar year, you can also use the Online Payment Agreement to request a payment agreement. To view an instructional video on the Online Payment Agreement application, visit www.irs.gov/payments/OPA.

- **By phone**. Please call the number on your notice or 1-800-829-4477.

- **By mail**. Please complete Form 433-D, Installment Agreement Request. In addition to Form 433-D, if you want to make your payments by payroll deduction, complete Form 433-D, Payroll Deduction Agreement. If you owe more than $50,000, you will also need to complete Form 433-E, Collection Information Statement.

Mail your form to the address on your notice.

If you request a payment plan online, you will receive immediate notification if your agreement is approved. If you request a payment plan by mail, you can reduce the amount of penalties and interest by making voluntary payments until you’re notified whether we have accepted your payment plan request. Our acceptance of your installment payments doesn’t mean we’ve approved your request. We will notify you in writing once we’ve made our decision.

With an Installment Agreement, you can pay your debt through payroll deduction, electronic funds transfer or check. The setup fee is reduced if you agree to make your payments by direct deposit. You can also pay a reduced setup fee if you meet our low-income guidelines. For more information, see Form 12277, Application for Reduced User Fee for Installment Agreement.

You do not need to submit the user fee with your installment agreement application. The fee can be taken from the initial payments made since this installment agreement is accepted.

To be eligible for an installment agreement, you must file all required tax returns. Prior to approving your Installment Agreement request, we may ask you to complete a Collection Information Statement (Form 433-F, 433-A and/or Form 433-D) and provide proof of your financial status. Please have your financial information available if you apply over the phone or at an IRS office. For more information, see Publication 1594, How to Complete a Collection Information Statement (Form 433-D).

If we approve your request, we will still charge applicable interest and penalties until you pay the balance due in full, and may issue a Notice of Federal Tax Lien (see page 5). If we reject your installment agreement request, you may request that the Office of Appeals review your case. For more information, see Publication 12277, Collection Appeal Rights. If you’re unable to meet the terms of your approved installment agreement, please contact us immediately.

Apply for an Offer in Compromise

You may be eligible for an Offer in Compromise if you can’t pay the amount you owe in full or through installment payments. By requesting an Offer in Compromise, you’re asking to settle unpaid taxes for less than the full amount you owe. We may accept an Offer in Compromise if:

- You agree to your tax debt truly not be accurate.
- You have substantial assets you can’t claim to pay the amount due.
- Because of your exceptional circumstances, paying the amount due would cause an economic hardship.

Before an Offer in Compromise is to be considered, you must pay an application fee and make an initial or periodic payment for all other tax liabilities. However, low-income taxpayers may qualify for a waiver of the application fee and initial or periodic payment. For more information, please see the Low-Income Certification on www.irs.gov/OfferInCompromise.

Offer in Compromise, this item is contained in Form 433-D, Offer in Compromise Request.

Before we can consider your Offer, you must file all tax returns and pay any taxes legally required to file, make all required estimated tax payments for the current year, and make all required federal tax deposits for the current quarter. You can use the Offer in Compromise Pre-Qualifier tool at http://www.irs.gov/howto to determine whether the Offer in Compromise program is right for you. The program may be able to resolve your tax debt at an amount less than the full amount due to the IRS.

If you agree to an Offer in Compromise, you must complete one of the following forms:

- **Form 433-D. Offer in Compromise (Doubt as to Liability)** Complete this if you think your tax debt isn’t accurate.

- **Form 433-D. Offer in Compromise (Doubt as to Liability)** Complete this if you’re unable to pay the amount due, but have no available assets to pay the tax debt.

For more information, see Form 433-D, Offer in Compromise Request or visit www.irs.gov/individuals/Offer-in-Compromise..

If you are unable to pay at this time

Ask that we delay collection and report your account as currently not collectable.

If you can’t pay any of the amount due, because you believe your payment would prevent you from meeting living expenses, you can request that we delay collection until you’re able to pay. Prior to approving your request, we may ask you to complete a Collection Information Statement and provide proof of your financial status. Please remember that even if we delay collection, we will still charge applicable interest and penalties until you pay the full amount due, and we may file a Notice of Federal Tax Lien (see page 5). We may also request additional financial information during this temporary delay to verify your ability to pay.

- How long we have to collect taxes

We can attempt to collect your taxes up to 10 years from the date the tax was assessed, however, there are ways this time period can be suspended. For example, by law, the time to collect may be suspended while:

- We’re considering your request for an Installment Agreement or Offer in Compromise. If your request is rejected, we will suspend collection for another 30 days, and during that period the Appeals Office is considering your appeal request.

- We’re outside the U.S. The collection period is extended for at least 6 months. Collection is suspended while you’re outside the U.S.

- The tax periods we’re collecting on are included in a bankruptcy case, or you have a valid bankruptcy filing with an automatic stay. We will suspend collection for the time period you can’t collect due to the automatic stay, plus 90 days.


**The IRS Collection Process**

- You request a Collection Due Process hearing, Collection will be suspended until the date of your request until a Notic

- A Notice of Determination is issued or the Tax Court’s decision is final.

- We will consider your request for Innocent Spouse Relief. Collection will be suspended from the date of your request until 60 days after the Notice of Determination is issued. If you request a timely petition to the Tax Court, until 60 days after the Tax Court’s decision is final. If you appeal the Tax Court’s decision to a U.S. Court of Appeals, the collection period will begin 60 days after the appeal is filed, unless court orders are otherwise.

**How to appeal an IRS decision**

You have the right to appeal most collection actions to the IRS Office of Appeals ( Appeals). Appeals is separate from and independent of the IRS Collection office that initiates collection actions. Appeals serves and protect the taxpayer’s independence by adhering to a strict policy prohibiting certain communications with the IRS Collection office or other IRS offices, such as discussions regarding the strength or weakness of your case. When an IRS officer is engaged in discussions, you will be invited to participate in the conference, or provided any written document to give you an opportunity to comment. Your options for appeals are the following:

**Collection Due Process**

The purpose of a Collection Due Process hearing is to have an Appeals-review collection actions that were taken or have been proposed. After Appeals has made their determination, the IRS officer will send you a letter that identifies the issues they are investigating, including the amount of tax owed, the date of the tax year, and the name of the taxpayer. The letter will also tell you how you can contact the IRS to discuss your case.

- Notice of Federal Tax Lien and Your Right to a Hearing
- Final Notice—Notice to Levy and Notice of Your Right to a Hearing
- Notice of Levy and Right of Appeal
- Notice of Levy on Your State Tax Refund—Notice of Your Right to a Hearing
- Notice of Levy on Your Right to a Hearing

To request a Collection Due Process hearing, complete Form 12273, Request for a Collection Due Process or Equivalent Hearing or a written request containing the same information as contained in Form 12273, and send it to the address on your notice. You must request a Collection Due Process hearing by the date indicated on the notice and pay the fee for the hearing. If you do not request a Collection Due Process hearing, your case will be referred to Appeals for examination. If you request a Collection Due Process hearing, your case will be referred to Appeals for examination. If you request a Collection Due Process hearing, your case will be referred to Appeals for examination. If you request a Collection Due Process hearing, your case will be referred to Appeals for examination. If you request a Collection Due Process hearing, your case will be referred to Appeals for examination. If you request a Collection Due Process hearing, your case will be referred to Appeals for examination. 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property, such as a house or car, and rights to property, such as wages, and bank accounts. The lien automatically comes into existence if you don't pay your amount due after receiving your first bill.

**Notice of Federal Tax Lien:** A public notice to creditors. It notifies them that there is a federal tax lien that attaches to all your current and future property rights, except property.

**Levy:** A legal seizure of property or rights (to property) to satisfy a tax debt. When property is seized ("levied"), it will be sold to help pay your tax debt. If wages or bank accounts are seized, the money will be applied to your tax debt.

**Seizure:** There is no legal difference between a seizure and a levy. Throughout this publication, we will use both terms interchangeably.

**Notice of Intent to Levy and Notice of Your Right to a Hearing:** Generally, before property is seized, we have to send you this notice. If you don't pay your overdue taxes, we may make further arrangements to satisfy the tax debt, or require a hearing within 30 days of the date of this notice, which may affect your property.

**Summons:** A summons legally compels you or a third party to meet with the IRS and provide information, documents, or testimony.

**Passport Actions:** The Department of State will not issue or renew a passport to any individual who has filed a notice of the IRS as having a seriously delinquent tax debt, and may revoke a passport previously issued to such individuals.

**Collection actions in detail**

- **Federal tax lien:** A legal claim against property. A lien is a legal claim against all your current and future property. When you don't pay your first bill for taxes due, a lien is created by law and attaches to your property. It applies to property (such as your home and car) and any current and future rights you have to property.

  **Notice of Federal Tax Lien:** Provides public notice to creditors that a lien exists. A Notice of Federal Tax Lien gives public notice to creditors. If you don't pay your taxes, a lien is created by law and attaches to your property. It applies to property (such as your home and car) and any current and future rights you have to property.

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Whether you qualify for a subordinate lien, see Publication 794. How to Prepare an Application for a Certificate of Subordination of Federal Tax Liens, to watch an instructional videotape, Publication 794, visit www.irs.gov/individual/HSLiens.

Appeal rights for withdrawal, discharge or subordination
If your application is denied, you will receive Form 11202, Collection Appeal Request and Publication 1600, Collection Appeal Rights, with an explanation of why your application was denied. If we deny your request for withdrawal, discharge, or subordination, you may appeal under the Collection Appeals Program.

** Levy: A seizure of property**
A federal tax lien is a legal claim against your property, a levy is a legal seizure that actually takes your property (such as your house or car) or your rights to property (such as your income, bank account, retirement account or Social Security payments) to satisfy your tax debt.

We can seize your property if you have a payment or pending installment agreement, offer in compromise, or if we agree that you’re unable to pay due to economic hardship, meaning paying your property would result in your inability to meet basic, reasonable living expenses.

Reasons we may seize (“levy”) your property or rights to property
If you don’t pay your taxes or make arrangements to settle your debt, we could seize and sell your property. We will not seize your property to collect an individual’s share responsibility payment. We usually seize only after the following things have occurred:
- You received the tax and sent it to a bank.
- You negotiated or refused to pay the tax, and are 90 days delinquent.
- We sent you a Final Notice of Intent to Levy and Notice of Your Right to a Hearing at least 30 days before the seizure.

However, there are exceptions for when we don’t have to offer you a hearing or seize your property. These include situations when:
- The collection of the tax is in jeopardy.
- A levy is served on a collateral to satisfy a state tax refund.
- A levy is served to collect the tax debt of a federal contractor, or
- A Disqualified Employment Tax Levy (DET) is served. A DETL is a seizure of unpaid employment taxes and can be served when a taxpayer has unfiled employment taxes for periods after the 2 years for which the tax is due.

If we serve you a levy, we will send you a letter explaining the seizure and your appeal rights after the levy is issued.

What you should do if your property is seized (“levied”)
If your property or federal payments are seized, call the number on your levy notice or 1-800-829-1040. If you’re already working with an IRS employee, call him or her for assistance.

Examples of property we can seize (“levy”)
- Wages, salary, or commission paid by someone else. If we seize your wages, salary, commissions, or similar payments that are held by someone else, we will serve a levy once, not each time you’re paid. If there is a levy on your bank account, the levy is fully paid, and other arrangements are made, the collection period ends.
- Other payments you receive, such as dividends and payments on promissory notes, are also subject to seizure. However, the seizure only reaches the payments due or the right to future payments as of the date of the levy.
- Your bank account. Sums of the funds in your bank account or money owed to you in your bank account are available for withdrawal up to the amount of the seizure. After the levy is issued, the bank will hold the available funds and give you 21 days to resolve disputes about who owns the account before sending us the money. After 31 days, the bank will send us your money, and any interest earned on that money will go to the IRS.
- Your stock or securities. The funds in your bank account will stay there until we ask for them.
- Any interest earned on that money will go to the IRS. If the amount you owe is less than the amount you owe, you will pay the difference.
- You will be notified of the levy being placed.
- The IRS will help you pay your taxes.
- You enter into an Installment Agreement and the terms of the agreement determine that.

How to appeal a proposed seizure (“levy”)
You can request a Collection Due Process hearing within 30 days from the date of your Notice of Intent to Levy and Notice of Your Right to a Hearing. Send your request to the address given in your notice. For more information, see Publication 3315, Request for a Collection Due Process Equitable Relief Hearing. At the conclusion of your hearing, the Office of Appeals will provide a determination. You’ll have 30 days after the determination to challenge it in the U.S. Tax Court. If Collection Due Process rights aren’t available for your case, you may have other appeal options, such as the Collection Appeals Program.

Reasons we “release” a levy
The Internal Revenue Code specifically provides that we must release a levy no later than:
- You paid the amount you owe.
- The period for collection ended prior to the levy being placed.
- It will help you pay your taxes.
- You enter into an Installment Agreement and the terms of the agreement determine that.
The levy creates an economic hardship, meaning we've determined the levy prevents you from meeting basic, reasonable living expenses, or

- The value of the property is more than the amount owed and releasing the levy won't hinder our ability to collect the amount owed.

We will also release a levy if it was issued improperly. For example, we will release a levy if it was issued:

- Against property exempt from seizure.
- Prematurely.
- Before we sent you the required notice.
- While you were in bankruptcy and an automatic stay was in effect.
- While the expiration of seizing and selling the levied property would be greater than the fair market value of the property.
- While an installment Agreement request, Innocent Spouse Relief request, or Offer In Compromise was being considered or had been accepted and was in effect.
- While the Office of Appeals or Tax Court was considering a collection due process case and the levy wasn't a Disqualified Employment Tax levy to collect employment taxes, a state refund, a state levy or to collect the tax debt of federal contractor.
- While the Office of Appeals or Tax Court is considering an appeal of the denial of innocent spouse relief.

**Reasons we may return seized ("levied") property**

We may return your property if:

- The seizure was premature.
- The seizure was in violation of the law.
- Returning the seized property will help our collection of your debt.
- You entered into an installment Agreement to satisfy the liability for which the levy was made, unless the Agreement does not allow for the return of previously levied upon property.
- We didn't follow IRS procedures, or
- It's in your best interest and in the best interest of the government.

We may return property at any time if the property has not been sold. If we decided to return your property but it's already sold, we will give you the money we received from the sale. You can file a request for return of seized money or money from the sale of seized property, generally up to 9 months after the seizure.

**How to recover seized ("levied") property that's been sold**

To recover your real estate, you (and anyone with interest in the property) may notify it within 120 days of the sale by paying the purchaser what they paid, plus interest at 7% annually.

If your property has been seized ("levied") to collect taxes owed by someone else, you may appeal the seizure under the Collection Appeals Program or file a claim under Internal Revenue Code section 6345, generally within 9 months of the seizure, or you may file a suit under Internal Revenue Code section 7426 for the return of the wrongfully seized property, generally within 9 months of the seizure. You may also appeal the denial of the request to return the wrongfully seized property under the Collection Appeals Program. For more information, see Publication 4628, Making an Administrative Wrongful Levy Claim under Internal Revenue Code section 6345(f).

**How to recover economic damages**

If we wrongfully seized your property, we lost or maxmized your payment, or there was a direct debit installment Agreement processing error and you incurred bank charges, we may refund you for those charges. For more information, see Form 2290, Claim for Reimbursement of Bank Charges. If your claim is denied, you can sue the federal government for economic damages.

If we intentionally or negligently didn't follow Internal Revenue Code law while collecting your taxes, or you're not the taxpayer and we wrongfully seized your property, you may be entitled to recover economic damages. Mail your written administrative claim to the attention of the Advisory Group Manager for your area at the address listed in Publication 4235, Collection Advisory Group. Additionally, if your file a claim and your claim is denied, you can sue the federal government for economic damages.

**Summons:** Used to secure information

If we're having trouble gathering information to determine or collect taxes owed, we may serve a summons. A summons legally compels you to appear in court to answer questions and provide documents or submit to an examination. You may be asked to appear the same as you would if your name were called.

If you're responsible for a tax liability and we serve a summons on you, you may be required to:

- Testify.
- Bring books and records to prepare a return and tax return.
- Produce documents to prepare a Collection Information Statement Form 433-A or Form 433-D.

If you can't make your summons appointment, immediately call the number listed on your notice. If you don't contact us and don't attend your appointment, we may sue you in federal court to require you to comply with the summons.

If we serve a third-party summons to determine your tax liability, you will receive a notice indicating that we're conditioning a third-party. This notice will be financial institutions, record keepers, or people who have information relevant to your tax returns. We won't review their information or require testimony until the end of the 30th day after the notice was given. You also have the right to:

- Petition to the court to quash the summons before the end of the 30th day after the date of the notice.
- Petition to the court to quash the summons to which the third party didn't comply.

If we issue a third-party summons to collect taxes you already owe, or you're not required to be present to protest or intervene in a suit to enforce the summons.

**IRS action affecting passports**

The Fixing America's Surface Transportation Act of 2015, enacted by Congress and signed into law on December 4, 2015, requires the Internal Revenue Service to notify the State Department of taxpayers delinquent in their federal tax obligations. The IRS can revoke or deny the issuance of passports to any taxpayer who owes more than $50,000 in taxes and interest, or who has a balance due. If you are delinquent in your tax obligations, you will be notified by the Internal Revenue Service. If you do not pay the taxes that are due, your passport may be denied or revoked. For more information, visit www.irs.gov/passports.

**Information for Taxpayers assigned to a Private Collection Agency**

Your delinquent account will be assigned to a Private Collection Agency. We will notify you of the assignment before the Private Collection Agency contacts you and will send you Publication 4628, What You Can Expect When the IRS Assigns You to a Private Collection Agency. If you have questions about the Private Collection Agency, you can contact them directly. The Private Collection Agency will contact you at the address and phone number on your notice. To protect your privacy, we will not provide you with a taxpayer identification number or Taxpayer Authentication Number. For additional information on private collections, visit www.irs.gov private.
Publication 2155, The IRS Collection Process

requires that they provide you with quality service and treatment. For more information about the private debt collection program, visit www.irs.gov/businesses/small-businesses-self-employed/private-debt-collection.

Information for employers:
Collection of employment tax

About employment taxes
Employment taxes are the amount you must withhold from your employees' wages, for their income tax and Social Security/Medicare tax (trust fund taxes) plus the amount of Social Security/Medicare tax you pay for each employee. Federal unemployment taxes are also considered employment taxes.


What we will do if you don't pay your employment taxes:
- Assess a failure to deposit penalty, up to 15% of the amount not deposited in a timely manner.
- We may propose a Trust Fund Recovery Penalty assessment against the individuals responsible for failing to pay the trust fund taxes.
- We may refer this matter to the Department of Justice for civil collection or criminal prosecution for failure to adhere to the reporting and payment requirements mandated by the Internal Revenue Code.

About trust fund taxes
Trust fund taxes are the income tax, Social Security tax, and Medicare tax (trust fund taxes) withheld from the employee's wages. They are called trust fund taxes because the employer holds these funds in trust for the government until it submits them in a federal tax deposit. Certain federal taxes are also considered trust fund taxes because they are collected and held in trust for the government until submitted in a federal tax deposit. More information, see Publication 11, Federal Tax Payment System.

To encourage prompt payment of withheld employment taxes and collected excess taxes, Congress has passed a law that provides for the Trust Fund Recovery Penalty.

For more information on employment taxes or trust fund taxes, see Publication 15, Circular E, Employer's Tax Guide.

Trust Fund Recovery Penalty
Trust fund recovery penalties are a penalty that is assessed against employees who are responsible for paying the trust fund taxes, but who willfully did not do so. The amount of the penalty is equal to the amount of the unpaid trust fund taxes. For additional information, please see Notice 254. Also, be sure you are personally liable for certain unpaid Federal taxes? or visit www.irs.gov/trfp.

If the Trust Fund Recovery Penalty is proposed against you, you will receive a Letter 1153 and Form 2731, Proposed Assessment of Trust Fund Recovery Penalty.

If you agree with the penalty, sign and return Form 2731 within 60 days of the date of the letter. To avoid the assessment of the Trust Fund Recovery Penalty, you must also pay the trust fund taxes personally.

If you disagree with the penalty, you have 10 days from the date of the letter to let us know that you don't agree with the proposed assessment. You may also pay the amount of the penalty and not be assessed a penalty. To contest the assessment, you must file a form 1227.

If you do not agree with the assessment, you must file a form 1227 (Notice of Controversy) within 10 days from the date of the letter. If you do not file a form 1227, you will be assessed a penalty. If you do file a form 1227, the penalty will be determined after the assessment is made. If the penalty is not paid within 30 days of the date of the notice, the IRS will assess a penalty. If you do not pay the penalty, the IRS will assess a lien or levy on your property.

If you do not agree with the proposed assessment, you may file a form 1227 within 60 days of the date of the letter. If you do not file a form 1227, you will be assessed a penalty. If you do file a form 1227, the penalty will be determined after the assessment is made. If the penalty is not paid within 30 days of the date of the notice, the IRS will assess a lien or levy on your property.

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Outside Counsel

Passport Revocation Begins For ‘Seriously Delinquent Tax Debt’

In January 2018, the Internal Revenue Service is rolling out a new collection tool: certifying a taxpayer’s “seriously delinquent tax debt” for passport revocation. Taxpayers who owe more than $51,000 in tax, penalties and interest; and (1) are not in a payment plan or do not have one pending, and (2) have exhausted or let lapse their administrative rights, can expect to receive IRS Notice CP508C, notifying them of their seriously delinquent debt. At the time the Notice is systematically issued to the taxpayer, the State Department is notified of the taxpayer’s seriously delinquent debt and may revoke the taxpayer’s passport, or refuse to issue or renew the passport, until the debt has been decertified.

This procedure was created by statute (26 U.S.C. §7345) in 2015, as part of the Fixing America’s Surface Transportation (FAST) Act and is now being implemented by the IRS.

The statute defines “seriously delinquent tax debt” as debt that has been assessed by the IRS, is greater than $50,000 (indexed for inflation); “to which—(i) a notice of lien has been filed pursuant to section 6323 and the administrative rights under section 6320 with respect to such filing have been exhausted or have lapsed; or (ii) a levy is made pursuant to section 6331.” The statutory exceptions to a “seriously tax delinquent debt” include debts that are being timely paid pursuant to an installment agreement or an offer in compromise or if a collection due process hearing has been requested or is pending or innocent spouse relief has been elected or is requested. See §7345(b)(2). Certain debt—Affordable Care Act assessments, employer shared responsibility payments, criminal restitution assessments, child support obligations and FBAR assessments—are not subject to certification under §7345. See I.R.M. 5.19.1.5, 19.2 (12-26-2017).

The certification may be reversed if (1) the certification is found to be erroneous (such as when an exception is met); (2) the debt has been fully paid; (3) an installment agreement is entered into; (4) an offer is accepted by the IRS; or (5) innocent spouse relief is elected or requested. See §7345(c). The State Department is notified of the taxpayer’s seriously delinquent debt and may revoke the taxpayer’s passport, or refuse to issue or renew the passport, until the debt has been decertified.

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with the IRS. See I.R.M. 5.19.1.5.19.8 (12-26-2017).

**Discretionary Certification Exclusions by the IRS**

Late last year, the IRS issued guidance as to certain categories of tax debt it will exclude from certification even if the debt would otherwise be considered "seriously delinquent tax debt." The exclusions include: debt that is determined to be currently not collectible due to hardship; debt resulting from identity theft; taxpayers that are in a disaster zone; tax debt that is the subject of a bankruptcy proceeding; debt of a deceased taxpayer; debt that is included in a pending offer in compromise; and debt that is included in a pending installment agreement. See I.R.M. 5.19.1.5.19.4 (12-26-2017).

Pending OICs and installment agreements will only be excluded if they are legitimate and are not made to delay collection. Additionally, the IRS will postpone certification of a seriously delinquent tax debt for taxpayers who are serving in a combat zone. 26 U.S.C. §7508(a)(3).

**Reversal of Certification by the IRS and Expedited Decertification**

The IRS will "systematically" notify the State Department within 30 days if a taxpayer's previously certified debt is fully satisfied, becomes legally unenforceable, or ceases to be a seriously delinquent tax debt because the taxpayer has entered into an approved installment agreement; is paying the debt in a timely manner as a part of an accepted offer in compromise or settlement with the Department of Justice; or collection has been suspended due to a timely requested or pending collection due process hearing pursuant to 26 U.S.C. §6330. See I.R.M. 5.19.1.5.19.9 (12-26-2017). Upon receipt, the State Department shall remove the certification from the taxpayer's record. See 22 U.S.C. §2714a(g); Chief Counsel Notice 2018-1 (01/12/2018). A pending equivalent hearing—a hearing that is requested after the 30-day statutory time limit but before a year has lapsed—will not protect a taxpayer from having his/her tax debt certified as seriously delinquent and subject to passport revocation. See I.R.M. 5.19.1.5.19.2 (12-26-2017). Nor will a certification be reversed because a taxpayer pays a portion of the debt down below the $51,000 threshold. See I.R.M. 5.19.1.5.19.9 (12-26-2017).

The IRS will decertify a tax debt when a discretionary exclusion is met, such as if the certified taxpayer files for bankruptcy; enters a combat zone; is determined to be currently not collectible; or there is an adjustment to the account that reduces the certification amount below the threshold, such as in the case of penalty abatement based on reasonable cause. However, penalty abatement that occurs as a result of the First Time Abatement Rule will not result in decertification once the taxpayer has been certified even if the abatement brings the debt down below the threshold amount (now $51,000). See I.R.M. 5.19.1.5.19.9 (12-26-2017). The IRS will also decertify the debt if requested to do so by the State Department. Additionally, 22 U.S.C. §2714(a)(c)(B) allows the State Department to issue a passport or not revoke a passport in "emergency circumstances or for humanitarian reasons." The State Department may also issue a limited passport that provides for return travel only to the United States. Id. However, "this action by the State Department does not affect the taxpayer's certification as a seriously delinquent taxpayer or reverse[s] their certification." See I.R.M. 5.19.1.5.19.8 (12-26-2017).

In the case of an erroneous certification, such as when the taxpayer is in a combat zone and the IRS was unaware of it or there is an approved installment agreement, the IRS will notify the State Department "as soon as practicable." See I.R.M. 5.19.1.5.19.9 (12-26-2017).

A taxpayer may request expedited decertification if they are eligible for decertification and (1) have foreign travel scheduled 45 days or less or live abroad; and (2) have a pending application for a
passport or renewal and can provide their passport application number and the location of the passport application. See I.R.M. 5.19.1.5.19.9.1 (12-26-2017). The IRS may then complete internal Form 14794, which will be forwarded directly to the State Department for action.

No Administrative Appeal Rights

Unlike when the IRS files a lien or issues a final notice of intent to levy, the taxpayer has no administrative appeal rights after receiving Notice CP508C. The statute does provide for judicial review, requiring a taxpayer to bring an action against the United States in the U.S. District Court or Tax Court “to determine whether the certification was erroneous or whether the Commissioner has failed to reverse the certification.” 26 U.S.C. §7435(e)(1). If found to be erroneous, both of these courts may order the IRS to “notify the State Department that the certification was in error.” §7435(e)(2). Since the Tax Court is a court of limited jurisdiction, if the taxpayer is seeking a court order directed to the State Department, the District Court may be the more appropriate venue.

Concerns

This latest collection tool by the IRS is cause for concern. While it may certainly be successful for the IRS collecting revenue, it is a new procedure involving coordination between two government agencies, short time periods and no administrative appeal rights. The IRS is a severely underfunded agency now charged with certifying and decertifying “seriously delinquent tax debt” which has significant consequences on the taxpayer in addition to liens and levies. Taxpayers who wish to resolve their seriously delinquent tax debt by entering into an installment agreement may have difficulty doing so if they don’t qualify for the online application (which has limitations as to the amount of the debt owed and time limitations as to when the debt must be paid off) and are unable to get through to the IRS on the phone to set up an agreement as many calls are dropped after long holding periods due to call volume and inability of the IRS to process all the customer service calls it receives.

Passports are not only needed for a vacation abroad, but many taxpayers need a valid passport to work or travel within the United States. For U.S. citizens living abroad, they will lose their ability to travel if their passports are revoked and unfortunately, certification notices from the IRS may not reach them as the IRS systems have difficulty with international addresses. While some practitioners have suggested that 26 U.S.C. §7345 may violate a citizen’s constitutional rights including the right to travel, passport revocation has been held to be constitutional for unpaid child support as long as the debtor has notice and an opportunity to contest the revocation/denial of his/her passport. See Weinstein v. Albright, 261 F.3d 127 (2d Cir. 2001). To avoid certification, it is advisable that taxpayers arrange for an acceptable collection resolution or timely avail themselves of their collection due process hearing rights.
IRS to Revoke Passports for Seriously Delinquent Tax Debts Starting February 2018

February 12, 2018

As detailed in our prior alert (here), Congress enacted the Fixing America’s Surface Transportation Act (the “FAST Act”) in December 2015 and authorized the Internal Revenue Service (“IRS”) to notify the Department of State (“State Department”) when any individual has a “seriously delinquent tax debt.” After receiving notice, the Secretary of State may deny that person the right to use, obtain, or renew a U.S. passport. Though the law was enacted more than two years ago, the IRS has not yet implemented it. That will soon change, as IRS deputy chief counsel (Operations), Drita Tovuzi, indicated during the American Bar Association midyear meeting that the IRS will begin sending certifications of seriously delinquent tax debts to the State Department this month.

A person has a “seriously delinquent tax debt” if the IRS has assessed a tax liability exceeding $50,000 (adjusted each year for inflation) against that person and either filed a notice of federal tax lien and exhausted all other administrative remedies provided as part of a collection due process hearing or made a levy with respect to the assessed liability. Pursuant to recently issued IRS guidance, a “tax debt” includes U.S. individual income taxes, trust fund recovery penalties, business taxes for which the individual is liable and other civil penalties — however, it does not include other non-tax liabilities, such as FBAR assessments under Title 31 and criminal restitution assessments.

The IRS intends to issue certifications and decertifications of seriously delinquent tax debts systematically on a weekly basis. The IRS will also send contemporaneous (though not advance) notification of certification (or reversal thereof) to the taxpayer. The notification will also advise the taxpayer of their rights for judicial intervention and remedy.

When the State Department receives notice of certification of an individual, it is expected to deny the certified individual a U.S. passport (or renewal of a U.S. passport) or may revoke any U.S. passport previously issued to that individual. However, IRS Notice 2018-1, 2018-3 IRB 299, issued January 16, 2018, explains that, when a certified taxpayer applies for a passport or a passport renewal, the State Department will generally hold such an application open for 90 days to allow the taxpayer a chance to resolve his or her tax delinquency or any other certification issues before denying a passport.

Certain statutory safe harbors from certification exist (see prior alert here). The IRS has also exercised its discretionary authority to add additional exclusions from certification, set forth in Internal Revenue Manual 5.19.1.5.19.4 (updated December 26, 2017). Such exclusions include debt that is determined to be currently not collectible due to hardship, debt that resulted from identity theft, taxpayers in a Disaster Zone, debt of any taxpayer in bankruptcy, debt of a deceased taxpayer, debt that is included in a pending offer in compromise or installment agreement, and debt with a pending adjustment that will result in no balance due. The Internal Revenue Manual indicates that these discretionary exclusion categories are subject to change at any time. It also provides for
expedited decertification in certain exigent circumstances such as scheduled travel within the next 45 days or if the taxpayer resides abroad.

If a taxpayer believes that the IRS has made an erroneous certification or has improperly failed to reverse a certification, the taxpayer’s sole remedy is to file suit in either federal district court or the U.S. Tax Court. A taxpayer may not avail him or herself of administrative IRS appeals to challenge a certification of a seriously delinquent tax debt.

Caplin & Drysdale’s Tax Controversy attorneys are experienced in assisting individuals who owe substantial sums to the IRS and who run the risk of detection, examination, and collection action arising from any form of tax noncompliance, including matters involving unreported foreign assets. For further information, please contact any of the attorneys below:

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Having celebrated their 50th Anniversary in 2014, Caplin & Drysdale continues to be a leading provider of tax, tax controversy, and litigation legal services to corporations, individuals, and nonprofits throughout the United States and around the World. We are also privileged to serve as legal advisors to accounting firms, financial institutions, law firms, and other professional services organizations.

The firm’s reputation over the years has earned us the trust and respect of clients, industry peers, and government agencies. Moreover, clients rely on our broad knowledge of the law and our keen insights into their business concerns and personal interests. Our lawyers’ strong tactical and problem-solving skills—combined with substantial experience handling a variety of complex, high stakes, matters in a boutique environment—make us one of the nation’s most distinctive law firms.

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- Political Law
- Private Client
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How Overdue Taxes Can Jeopardize Passports

Robert W. Wood, CONTRIBUTOR
I focus on taxes and litigation. FULL BIO ▶

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In a fresh 2018 Notice 2018–01, the IRS has provided new details about tax debts that can impact your ability to travel. The IRS is required by law to notify the State Department once your tax debt is certified as "seriously delinquent." After that, the State Department will generally deny issuing or renewing a passport. The State Department can even revoke a passport already in use. The law was enacted back in 2015, but the IRS and State Department are only now implementing the rules.

Notably, the rules are not limited to criminal tax cases, or even where the IRS thinks you are trying to escape a tax debt. The basics are in Section 7345 of the tax code, and the IRS has details on its website. The IRS first notifies the State Department, then the State Department generally will not issue or renew your passport. However, this only applies to a seriously delinquent tax debt, more than $50,000. Even so, that $50,000 includes...
penalties and interest. A $20,000 tax debt can grow to $50,000 including penalties and interest.

The latest details from the IRS involve what you can do if you face this situation. The IRS says that taxpayers notified that certification of their seriously delinquent tax debt has been transmitted to the State Department should consider: (1) paying the taxes in full, (2) entering into an installment agreement with the IRS; or (3) making an offer in compromise. The certification is serious. If a certified taxpayer applies for a passport, the State Department, in general, will provide the applicant with 90 days to resolve the tax delinquency before denying the passport application. If a taxpayer needs their passport to travel within those 90 days, the taxpayer must contact the IRS and resolve the matter within 45 days from the date of application, so that the IRS has adequate time to notify the State Department.

Can certifications be undone? Generally, the sole remedy for a taxpayer who believes that a certification is erroneous, or that the IRS incorrectly failed to reverse a certification (because the tax debt is fully satisfied or ceases to be seriously delinquent), is to file a civil action in court. The taxpayer cannot go to IRS Appeals to challenge the certification or the IRS decision not to reverse a certification. However, the taxpayer may contact the phone number in the IRS Notice CP508C to request reversal of the certification if the taxpayer believes that the certification is erroneous.

Procedure is important. Before a tax debt gets to this stage, the IRS usually sends multiple notices, so you should respond, and keep protesting. If you receive an IRS Notice of Proposed Deficiency or Examination Report, prepare a protest before the deadline. Normally a protest will land you in the IRS Appeals Office, where you have another chance to resolve it. If you fail to protest, or you can't resolve your case at IRS Appeals, you probably will receive a Notice of Deficiency. Then, you have 90 days to respond, by filing in the U.S. Tax Court. A tax debt does not become final if you keep your tax dispute going.

If despite all this, you get a certification that your tax debt is "seriously delinquent," contact the phone number listed on the IRS Notice. One of the main ways to keep your passport would be striking a deal with the IRS. It is often not too difficult to get an installment agreement with the IRS to pay your tax debt over time. If you sign one, stick to its terms. Even if your debt is huge, the IRS doesn't call it "seriously delinquent" if you are paying the installments on time. There are many taxpayer protections when it comes to IRS collections. If you make a timely request for a collection due process hearing in connection with a levy to collect the debt, you might buy time to work out a deal with the IRS.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not legal advice.
U.S. Passports in Jeopardy for Taxpayers Owning the IRS

On December 4, the United States dramatically increased the consequences of tax non-compliance when President Obama signed into law the Fixing America's Surface Transportation Act (the "FAST Act"). The statute places a provision placing at risk the holding of a U.S. passport for any American taxpayer with serious debts to the Internal Revenue Service ("IRS"). More broadly, it provides the IRS with yet another weapon in the Service's continuing push to root out and punish tax-noncompliance among taxpayers who have international tax problems or live overseas.

Under newly enacted section 7345 of the Internal Revenue Code, if the State Department receives a certification from the IRS that a person has a "seriously delinquent tax debt," the Secretary of State may deny, revoke, or place a limitation on the person's passport. A person has a "seriously delinquent tax debt" if the IRS has assessed a tax liability exceeding $50,000 (adjusted each year for inflation) against the person and either filed a notice of federal tax lien or made a levy with respect to the assessed liability. The new law requires contemporaneous notification to the individual whenever the IRS sends such a certification to the State Department.

The statute provides a safe harbor for taxpayers who are paying their tax liabilities in a timely manner under an installment agreement or offer-in-compromise, or who are undertaking certain permitted challenges to the IRS, causing the Service to suspend temporarily its collection action. Individuals serving in a combat zone or contingency operation, as defined in section 7508 of the Code, are also exempt from certification. The statute also allows for removal of a valid certification where, in general, the tax debt is subsequently paid, has become legally unenforceable, or has been reduced to an installment agreement or offer in compromise, or where the affected individual seeks innocent spouse or related relief under section 6015 of the Code. Taxpayers may also challenge a certification in court.

U.S. Taxpayers who owe taxes, interest and/or penalties to the IRS now face a serious risk that their passports may be revoked or severely restricted. Such taxpayers should be sure to exercise their lawful rights in the IRS audit and collection processes, as the issues of taxpayer liability or ability to pay cannot be argued or litigated in the context of an IRS certification to the Department of State. And while the statute obviously reaches those taxpayers who now owe more than $50,000 assessed after audits, it also portends serious problems for taxpayers living abroad, or with unreported foreign assets, if the IRS later certifies that they are non-compliant and assesses liabilities. Many individuals with such international issues have taken the view that the IRS cannot reach them, or their assets, because they live outside the U.S. To the extent taxpayers now ignore IRS audit and collection activity, they run the risk of having their passports revoked.

Caplin & Drysdale attorneys are experienced in assisting individuals who owe substantial sums to the IRS and who run the risk of detection, examination, and collection action arising from any form of tax-noncompliance,
including that involving unreported foreign assets. For further information, please contact any of the attorneys below:

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Collection

Report on the State of Passport Revocations and Denials

By Carol M. Luttati

Overview

In the June-July 2016 issue of the *Journal of Tax Practice & Procedure*, my collection column entitled *Revocation or Denial of Passport for Seriously Delinquent Tax Debts* explained that, on December 4, 2015, as part of the Fixing America’s Surface Transportation Act (“FAST” Act), the IRS was handed a powerful collection tool that was codified into new Code Sec. 7345, entitled *Revocation or Denial of Passport in Case of Certain Tax Delinquencies*. Under newly enacted Code Sec. 7345, the IRS was given the authority to certify to the Secretary of State that an individual taxpayer has a seriously delinquent tax debt. The effect of receiving such a certification from the IRS is that the Secretary of State will, on that basis alone, be permitted to deny a passport application or renewal, as well as revoke a taxpayer’s current passport.

Code Sec. 7345 is, thus, specifically designed to drive home to taxpayers with a seriously delinquent tax debt—broadly defined, with certain exceptions, as an unpaid, legally enforceable federal tax liability of an individual that has been assessed and is greater than $50,000—the imperative of (1) paying their tax debt in full, (2) entering into an Installment Agreement, (3) securing an Offer-in-Compromise, (4) filing an application for innocent spouse relief under Code Sec. 6015, or (5) timely filing an application for a Collection Due Process Hearing, in order to avoid adverse passport consequences. The focus of this column is on exploring how this change in the law is expected to be implemented and to work moving forward.

Delegation of Certification

Code Sec. 7345(g) provides that certification that an individual has a seriously delinquent tax debt, or the reversal of such a certification may only be delegated by the IRS to the Deputy Commissioner for Services and Enforcement, or the Commissioner of an operating division of the IRS. Delegation Order 1-65 issued on January 5, 2017, however, has clarified that the authority to certify that an individual has a seriously delinquent tax debt or to reverse that certification lies with the Deputy Commissioner for Services and Enforcement of the Commissioner, Small Business/Self-Employed (“SB/SE”) Division. Further, Delegation Order 1-65 states that this authority may not be re-delegated. Accordingly, the Commissioner of SB/SE possesses the power to determine which individual taxpayers with seriously delinquent tax debts will face the prospect of having their ability to travel abroad (be it a right or a privilege) denied. Furthermore, the
Commissioner of SB/SE is also tasked with performing the reversal of certification.

The $50,000 Threshold and Securing Decertification

While the IRS has not yet issued official guidance on the passport certification process, it has posted Frequently Asked Questions ("FAQs") on its website. Prior to May 31, 2017, the FAQs reported that passport certification would begin in early 2017. Now, the FAQs that were last updated on June 2, 2017, state that passport certification will begin in 2017. As of the writing of this column, the IRS has not begun certifying seriously delinquent tax debts to the Secretary of State for action.

Nevertheless, in quantifying whether the $50,000 threshold for certification of a seriously delinquent tax debt has been met, the FAQs explain that interest and penalties are to be included. This now makes clear that the $50,000 threshold is not limited to simply being the unpaid tax. Moreover, the $50,000 threshold will be annually indexed for inflation.

Significantly, the FAQs also specifically provide that the IRS will not reverse a certification if all the taxpayer does is pay down his/her overall tax liability to less than $50,000. Thus, taxpayers are unambiguously discouraged from taking an approach to resolving their tax debt that does not comprehensively address payment of the entire tax debt. Towards that end, the FAQs provide that the State Department will hold a passport application for 90 days, prior to denying the application, in order to afford the taxpayer time within which to make full payment of the tax debt, enter into a collection/payment alternative, or resolve an erroneous certification claim.

Satisfying the Requirement of Taxpayer Notification

Code Sec. 6334(d) mandates that the IRS contemporaneously notify the taxpayer of a certification or reversal of certification and that the notice include a description in simple and non-technical terms of the right to commence a civil action under Code Sec. 7345(e). Notably, a taxpayer's legal recourse lies only against the IRS inasmuch as the State Department is held harmless and cannot be sued under Code Sec. 7345.

The notice requirement has also been incorporated, by reference, into both Code Sec. 6332, Notice and Opportunity for Hearing Upon Filing of Notice of Levy, and Code Sec. 6334, Levy and Detriment. Thus, it is incumbent upon the IRS to now include information about Code Sec. 7345 when it issues either a Notice of Filing a Federal Tax Lien or a Notice of Levy.

In this regard, the Committee Report on the FAST Act Conference Agreement states, in concern Code Sec. 7345(d), that:

The provision requires notice to taxpayers regarding the procedures. First, the provision adds the possible loss of a passport to the list of matters required to be included in notices to taxpayer of potential collection activity under sections 6320 or 6331. Second, the provision requires that the Commissioner provide contemporaneous notice to the taxpayer(s) when the Commissioner sends a certification of serious delinquency to the Secretary of the Treasury. Finally, in instances in which the Commissioner certifies the taxpayer's status as a delinquent taxpayer, he is required to provide notice to the taxpayer contemporaneous with the notice to the Secretary of the Treasury.

The first of the aforesaid three types of notice is now being given to taxpayers by incorporating the following language into Notice of Federal Tax Lien Filing and Your Right to a Hearing Under Code Sec. 6332 (Letter 5172), and Final Notice, Notice of Intent to Levy and Notice of Right to a Hearing (Letter 1058) both of which afford a taxpayer the right to request a Collection Due Process or Equivalent Hearing.

On December 4, 2015, as part of the Fixing America's Surface Transportation (FAST) Act, Congress enacted section 7345 of the Internal Revenue Code, which requires the Internal Revenue Service to notify the State Department of taxpayers certified as owing a seriously delinquent tax debt. The FAST Act generally prohibits the State Department from issuing or renewing a passport to a taxpayer with seriously delinquent tax debt.

Seriously delinquent tax debt means an unpaid, legally enforceable federal tax debt of an individual totaling more than $50,000 for which a Notice of Federal Tax Lien has been filed and all administrative remedies under IRC § 6332 have lapsed or been exhausted, or a levy has been issued. If you are individually liable for the tax debt (including penalties and interest) totaling more than $50,000 and you do not pay the amount you owe or make alternative arrangements to pay, or
request a Collection Due Process hearing by ..., we may notify the State Department that your tax debt is seriously delinquent. The State Department generally will not issue or renew a passport to you after we make this notification. If you currently have a valid passport, the State Department may revoke your passport or limit your ability to travel outside of the United States. Additional information on passport certification is available at www.irs.gov/passports.

The second type of notice that is required to be given to a taxpayer when the IRS certifies a seriously delinquent tax debt to the Secretary of State will be made by using Notice CP 508C, Notice of Certification of Your Seriously Delinquent Federal Tax Debt to the State Department. If you agree with the balance due on Notice CP 508C, the notice instructs taxpayers what they need to do to prevent the State Department from denying, revoking or limiting their passports—which is to either pay the amount owed or make alternate payment arrangements. The notice includes a payment voucher setting forth the amount due and the payment due date and stating that payment by check or money order payable to the U.S. Treasury bearing the taxpayer's identification number, Form 1040, and the applicable tax year(s) is to be mailed to the IRS, Attn: Passport, R.O. Box 8208, Philadelphia, PA 19101-8208.

On the other hand, if you disagree with the balance due on Notice CP 508C, the notice says:

If you've already paid the tax debt listed above, please send us proof of that payment.

If you don't agree that you owe the tax debt listed above, or want to contest the certification for another reason, you can call us at the phone numbers listed on the first page of this notice. You can also bring a civil action in a district court of the United States or the United States Tax Court to have a court determine if the certification was erroneous or if the IRS has failed to reverse the certification as required by IRC Section 7345(a). You are not required to contest us otherwise exhaust administrative remedies before filing a civil action.

Notice CP 508C provides two contact telephone numbers—one domestic (888-519-4695) and the other international (267-941-1004). Taxpayers who have any questions or who disagree with the notice must contact the IRS within 30 days of the date on the notice at the telephone numbers provided. Taxpayers can also call the National Passport Information Center at 877-487-2778 for additional information about the status of their passport.

The third type of notice required to be given to a taxpayer, where applicable, is notice of the reversal of certification. This notice will be given by means of Notice CP 508R, Reversal of Notice of Certification of Your Seriously Delinquent Federal Tax Debt to the State Department. In relevant part, Notice CP 508R informs the taxpayer that as a result of IRS notification, the State Department is no longer required to deny your application for a passport or passport renewal and cannot revoke your current passport because you owe tax. The State Department may, however, deny your passport application or revoke your passport for reasons unrelated to your tax debt. You do not need to respond to this notice ... Keep this letter for your records.

Closing Comment

While the FAQs are not binding, and we wait for the issuance of formal guidance from the IRS setting forth the specifics of how Code Sec. 7345 will be implemented, taxpayers with seriously delinquent tax debts would do well to pro-actively pursue a collection alternative sooner rather than later, especially those for whom having a valid U.S. passport to travel abroad for business purposes is a job requirement.

ENDNOTES

1. Final Amended Service Procedures Act (PL 114-94)
2. See Code Sec. 7345R(b)(1) and (b).
3. See Code Sec. 7345(g).
4. See Code Secs. 6301(b)(1) and 6314(a)(4).
5. See Code Sec. 7345(e).
Will Bankruptcy Get Your Passport Back?

Today, we welcome guest blogger Kenneth C. Weis. Ken has his own practice in Seattle that focuses on representing individuals with tax debt and resolving that debt through administrative action with the IRS or through bankruptcy. He has written a book on his specialty area: Weis, Taxes and Bankruptcy, (CCH Int'l/Connect Service Online Only) 3rd ed., 2014. In 1994 Congress passed the first major set of reforms to the Bankruptcy Code of 1978 but it became clear that more reform was necessary. It set up a bankruptcy commission to look into the needed reforms and the reform commission established a tax advisory panel to assist it with the tax aspects of the reforms. Ken served on the tax advisory panel and has continued to be a leading thinker at the intersection of tax and bankruptcy.

He serves in the leadership of the Bankruptcy and Workouts (B&W) Committee of the ABA Tax Section. The ABA Tax Section met in Los Angeles in late January where Ken participated in a B&W Committee panel with Bankruptcy Judge Mark Wallace of the Bankruptcy Court for the Central District of California, Santa Ana Division. As part of that panel he presented information regarding the new passport revocation/denial rule. I thought this information might be of interest to the blog readers and persuaded Ken to write something for us, Ken.

The Operative Language

Now, I.R.C. § 7345(a) authorizes the State Department to deny issuance, revoke, or limit a passport if the IRS certifies to the State Department that an individual has seriously delinquent tax debt (SDTD). The operable verbs in § 7345(a) are deny, revoke and limit. Denial and revocation are straightforward. Limitation is not as clear. By way of example, FAST Act § Section 32101 (e) provides a time limitation clause for return to the United States for citizens whose passports are being revoked.

For certification to occur, there must be SDTD, which is a defined term with four components. Section 7345(b)(1)(A) provides that the tax debt must have been assessed and be legally enforceable before it can be SDTD. The requirement of assessment means the standard for SDTD is very different from a claim in bankruptcy, which Bankruptcy Code section 501(5) defines broadly. In addition, Section 7345(b)(1)(B) and (C) require both an “age” component and a size component before tax debt can be SDTD. As to the “age” component, for the assessed and legally enforceable tax debt to be converted into SDTD, the tax liability must have been subject to a notice of federal tax lien (NFTL) and the
accompanying administrative rights for seeking a collection due process (CDP) hearing or sales tax assessment or having exhausted or have elapsed, or, the tax liability must have been the subject of a levy. Also, the "qualifying" tax debt must exceed $50,000, including penalties and interest, as indexed for inflation. This means that $50,000 of SDTD not $50,000 or tax debt.

Even if tax debt qualifies as SDTD, there are events that may take the debt out of that classification. Section 7345(b)(2) sets out the events that prevent debt from being SDTD. These events are the taxpayer's (i) in a installment agreement (IA), (ii) making payments under an offer in compromise (OIC), (iii) in a pending CDP hearing or has requested one, or (iv) seeking innocent spouse relief (ISR).

Certification can be reversed. Section 7345(c)(1) provides that certification shall be reversed if the debt "ceases to be seriously delinquent tax debt by reason of subsection (b)(2)." In other words, the events in the previous paragraphs will support reversal. Certification can also be reversed if the certification was erroneous or the debt is fully satisfied. This means once certification has occurred a partial payment that takes the SDTD below $50,000 will not be grounds for certification reversal. Rules for the date by which the certification must be reversed are found Section 7345(c)(2).

Certification information transferred from the IRS to the State Department is limited to the taxpayer's identity information and the amount of the SDTD. I.R.C. § 6603(b)(1).

Examining Fast Act § 32101: More Closely

A close examination of Fast Act § 32101 raises some interesting nuances and a number of unanswered questions.

Serious delinquency tax debt. The trigger for certification is not $50,000 of tax debt. If it is $50,000 of SDTD, the tax debt must have been subject to a levy or a NFTL with exhausted/expired CDP rights. If the individual has some debt that "qualifies" as SDTD and some debt that does not because the collection process has not progressed far enough, only the "qualifying" debt is used to reach the $50,000 total.

Different rules for liens and levies. There is a slight difference in treatment between liens and levies. Tax debt will not convert into SDTD when the NFTL is filed, if CDP rights remain. The actual phrase used in Section 7345(b)(1) is the administrative rights must "have been exhausted or have elapsed." The best guess is that tax debt is SDTD if the taxpayer has "only" equivalency hearing rights. In contrast, a levy is sufficient to create SDTD.

CDP-hearing-notice rights that are present because of a NFTL filing must warn of the possibility of a denial, revocation, or limitation of a taxpayer's passport. In slight contrast, notices of intent to levy must provide that warning. I.R.C. § 6331(d)(4)(G). Presumably, because the notice is provided in the notice of intent to levy, the requirement of an additional notice was not added to the CDP-hearing notice that accompanies the final notice of intent to levy.
Legally unenforceable. The requirement of legal enforceability in § 7245(m)(1) creates difficult issues in the intersection of bankruptcy and § 7245.

Legally unenforceable discharge granted but NFTL not released. It is unclear whether the tax debt is legally unenforceable if it has been discharged in bankruptcy, but the NFTL is not released. Does the NFTL mean the debt is still legally enforceable? Will it make a difference if the tax debt is discharged, the NFTL remains attached to an asset, and the value of the applicable assets is well below $50,000 even though the discharged debt is well above $50,000? Does it make a difference if the value could, at some point, rise above $50,000? If the taxpayer disagrees with the determination that the debt is legally enforceable, then judicial recourse is available.

Legally unenforceable repayment plans in bankruptcy. There is no clear answer whether payments pursuant to plans in Chapters 11, 12, or 13, which presumably make the debt temporarily unenforceable but still owing, bar certification. Consider whether special provisions can be added to plans in Chapters 11, 12, or 13 to provide for payment of the tax debt so that the passport will not be certified for revocation or, if already certified, so that the certification will be rescinded. Normally, a special class is not allowed in Chapter 13 to pay unsecured, nondischargeable tax debt. Goodwin & Lord (In re Czapinski), 742 F.3d 911 (8th Cir. 2014), held that discrimination in payment of nondischargeable tax debt was not allowed, but discrimination was allowed if the discrimination was proposed in good faith and the degree of discrimination was directly related to the basis or rationale for the discrimination. If the taxpayer needs a passport to work, then, a special class of debt should be allowed. Will this be a sufficient payment plan to prevent denial of issuance or reversal of certification?

If payments under a plan are considered legally unenforceable, postpetition tax debt where property received in the bankruptcy estate, the IRS has postconfirmation earnings not committed to a plan were not part of the bankruptcy estate, and the IRS’s postpetition levy to collect postpetition tax debt not violate the automatic stay. Similarly, in In re DeBenedetti, 133 B.R. 715 (Bankr. M.D. N.C. 1991) granted the IRS relief from stay to pursue collection of postpetition taxes outside Chapter 13 plan where all plan payments had been made. In such an instance, will some of the tax be considered legally unenforceable or subject to an IA and some legally enforceable?

When certifications will not be made. Some events remove tax debt from the definition of SDTD. If tax debt is not SDTD, then certification will not be made. These events are the taxpayer is (i) in an IA, (ii) making payments under an OIC, (iii) in a pending CDP hearing or has requested one, or (iv) seeking ISR.

Submission of an OIC is not a listed event. To be an exception, the OIC must have been accepted so that the debt is no longer owed and the taxpayer must be making payments under the OIC. Given the length of time the IRS takes to process others, this is troubling.

What happens if a revenue officer decides to levy social security at 15% and takes no further action? Will the ongoing levy, which operates like an IA, be...
sufficient to qualify as an IA under the § 7345(b)(2) exceptions?

What happens if the debtor has insufficient income to warrant an IA? Should currently uncollectible status (CNC) be considered the equivalent of being in an IA? Must the taxpayer be in an IA that pays a de minimus amount to avoid certification? e.g., one dollar a month? A passport might be very important to someone on CNC status, e.g., if one lives near the border or has close family outside the United States.

Certification and the automatic stay. Is certification barred by the bankruptcy automatic stay? Governmental actions that are used to enforce their police and regulatory power are not subject to the automatic stay because of the exception to the stay found in 11 U.S.C. § 362(b)(3). Clearly, the passport rule is a coercive rule to enforce collection. Will it be viewed as a police and regulatory action similar to the criminal collection statutes in Nevada? In Nevada, criminal prosecutions to collect casino debts are not considered a violation of the discharge injunction or the automatic stay. (Nevada Clark City Cty. V. Attorney in re Nash, 464 B.R. 874 (9th Cir. Bankr. 2012) held that the Clark County District Attorney had not violated the discharge injunction when enforcing the criminal statute even though the statute was clearly designed to collect unpaid casino debts for the benefit of the casino. Does the automatic stay analysis change if the tax debt is otherwise dischargeable and likely to become legally unenforceable?

Judicial review. Section 7345(e) grants judicial review of certification to the Tax Court and district courts but not to bankruptcy courts. Section 7345(d) provides that notice of certification shall be given to the taxpayer and the notice shall include information about the right to contest the certification. Notice of reversal of certification must also be given to the taxpayer.

If the taxpayer and the government disagree whether the debt remains legally enforceable after bankruptcy, there may be a back-door entrance into bankruptcy court. Denial or revocation of a passport might subject the taxing authority to an action for a violation of the discharge injunction under 11 U.S.C. § 524. Damages, including attorney's fees, are notoriously difficult to collect because of the exceptions in section 7345 of the Internal Revenue Code. Given the uncertainty of the new law, one can certainly envision the IRS arguing that its position was substantially justified.

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Related

http://procedurallytaxing.com/will-bankruptcy-get-your-passport-back-3/
Norman Diamond says:

Bankruptcy isn't the only problem with the passport revocation law:

'Section 7345(b)(1)(A) provides that the tax debt must have been assessed and be legally enforceable before it can be 5DTD. [...] In addition, Section 7345(b)(1)(B) and (C) require both an "age" component and a size component before tax debt can be 5DTD. As to the "age" component, for the assessed and legally enforceable tax debt to be converted into 5DTD, the tax liability must have been subject to a notice of federal tax lien (NFTL) and the accompanying administrative rights for seeking a collection due process (CDP) hearing are exhausted or have elapsed, or the tax liability must have been the subject of a levy.'

So a Tax Court petition doesn't even count. If a CDP hearing upheld a lien or intent to levy, and even if the IRS intends to contest after Tax Court calendar call that the IRS had no basis for the lien or intent to levy, the IRS can win by preventing the victim from getting to Tax Court. Revoke the victim's passport so the immigration department of the victim's country of residence will arrest the victim[^1], and take their sweet time dithering about whether they'll issue a restricted passport until after Tax Court dismisses for missing calendar call.

Is assessment really required, or just legal enforceability? If a CDP hearing upheld a lien or intent to levy, and even if the IRS concedes in Tax Court that there was no assessment, the tax debt is still legally enforceable. Tax Court can prohibit collection by means of lien or levy, but the IRS can proceed to collect by other means, and Court of Federal Claims can either allow the collection or refuse to take jurisdiction because the unassessed debt has only partially been collected. The CDP hearing has been exhausted, legally.

Of course CDP hearings have their own problems, such as not providing due process by not revealing the IRS's underlying alleged basis for the alleged debt which might or might not have actually been assessed, thereby not providing the victim with opportunity to dispute the underlying basis and call appropriate witnesses. Having not been provided an examination hearing or notice of deficiency, I don't know if this kind of notice and opportunity might be available in such kinds of pre-collection hearings when such hearings are provided.

Of course there are other problems too, such as sending a registered letter to the IRS in Washington D.C., seeing the registered letter tracked to USPS in New York, and then seeing it disappear without delivery, no return, and no answer to postal inquiry. Anything they can do to set the stage for passport revocation, it looks like they'd do it.

[^1] Section 7345 wasn't the reason for revoking Bobby Fischer's passport, but the technique is the same.

Reply

Ken Woll says:

February 17, 2018 at 12:12 pm

>So a Tax Court petition doesn't even count

The statute reads "administrative rights... have exhausted or elapsed." As § 6330(c) incorporates the provisions of § 6330(d), which provides for a Tax Court hearing, I think your premise that a Tax Court petition does not count is incorrect.

>Is assessment really required
Yes, § 7345(b)(1)(A).

Your point about lack of notice because of USPS problems is well-taken.

Reply.

abc says:
February 23, 2016 at 1:13 pm

What is the impact on those with dual citizenship? If a person is abroad in a country in which that individual also happens to have citizenship, and the IRS revokes the individual’s U.S. passport, what then?

Reply.

Ken Weil says:
February 23, 2016 at 2:11 pm

Great question. Here is a link to a state department website on dual citizenship: [https://travel.state.gov/content/travel/en/legal/visit-the-united-states/citizenship/automatic-renunciation.html](https://travel.state.gov/content/travel/en/legal/visit-the-united-states/citizenship/automatic-renunciation.html).

Here are some thoughts. Passport revocations of citizens overseas will most likely include a time limit to return to the US. That is implied in §3210(c). If the dual citizen chooses to remain overseas, one would think that the dual citizen can just use the “other” country’s passport. Will that passport be barred from entering the US because of the revoked US passport? Will that person lose US citizenship because that person is using “another” country’s passport? If the answer to the last question is yes, wouldn’t that trigger the expatriation tax? If the citizen already has SDT, would the expatriation tax ever be collected?

Reply.

Norman Diamond says:
February 23, 2016 at 4:19 pm

Ken Weil replied to me:

“As § 6330(c) incorporates the provisions of § 6330(d), which provides for a Tax Court hearing, I think your premise that a Tax Court petition does not count is incorrect.”

Provision for a Tax Court hearing as a judicial right (by statute, as if the Fifth Amendment didn’t already provide it). If judicial rights were treated as administrative rights, lots of people would be denied judicial rights, because they have to exhaust administrative rights before a court acquires jurisdiction.

Reply.

Norman Diamond says:
February 23, 2016 at 8:26 pm

abc’s question is an understatement: “If a person is abroad in a country in which that individual also happens to have citizenship, and the IRS revokes the individual’s U.S. passport, what then?”

If a person has two or more citizenships, regardless of whether one of them is the country of residence or physical presence, what then? Bobby Fischer was in jail until Iceland issued him a passport, and Japan deported him to Iceland instead of the US. If this statute had existed when IRS employees[*] framed me for fraud, and if the asserted[**]
penalties had been just a bit larger, and if my Japanese immigration stamps were still in
my US passport they could get me arrested too. By coincidence my Japanese immigration
stamps had already been moved to my Canadian passport for different reasons, so
hypothetical revocation of my US passport would only prevent me from travelling to the
US while I held US citizenship.

Ken Weil responded with questions:

If the dual citizen chooses to remain overseas, one would think that the dual citizen can
just use the "aftier" country's passport?

Yes, except for entry to the US and exit from the US.

Will that person be barred from entering the US because of the revoked US passport?

Almost. A different statute requires US citizens to use US passports to enter and exit the
US. I think they can't be legally be barred but they can be jailed. However, in view of the
INS's historical tendency to deport US citizens, I'm not sure if today's successor to the IRS
could do barring too.

Will that person lose US citizenship because that person is using "another" country's
passport?

No. If a US citizen or US non-citizen national has performed a potentially expatriating act
then subsequent use of a non-US passport to enter or exit the US could be used as
evidence that the person had intent to expatriate at the time of performing the potentially
expatriating act. But simply use (illegally) of a non-US passport to enter or exit the US is
not itself one of the listed potentially expatriating acts. (I used to be confused on this
matter too. Experts at isaacbrocksoceity or set me straight.)

[ Likely including Monica Hernandez.]
[** Some of them assessed.]

Reply:

Norman Diamond says:

February 23, 2016 at 4:14 pm

I replied: "However, in view of the INS's historical tendency to deport US
citizens, I'm not sure if today's successor to the IRS could do barring too."

That should say today's successor to the INS. Though in this context: it's the IRS too.

Reply

Ken Weil says:

February 23, 2016 at 6:03 pm

Here is a statute supporting Mr. Diamond's statement regarding dual citizens
entering the US.

A USC § 1185(b). Except as otherwise provided by the President and subject to such
limitations and exceptions as the President may authorize and prescribe, it shall be
unlawful for any citizen of the United States to depart from or enter, or attempt to depart
from or enter, the United States unless he bears a valid United States passport.

Another website indicated that you could not get a US visa if you are also a US citizen.
So, even more problems for the dual citizen. Presumably, the "other" passport will allow
the person to travel elsewhere in the world.
Guess I am going to learn more about CBP (Customs and Border Protection) than I ever imagined.

Reply

Jeff Blanton says:
May 8, 2016 at 12:54 pm

Can a person with over $50,000 of IRS debt (and an IRS lien) who has already had her passport restricted set up a small IRS Installment Agreement and THEN get the passport restriction removed/released by the State Department or by IRS and then be able to visit her daughter in Europe?

Reply

Norman Diamond says:
May 8, 2016 at 12:48 pm

"Can a person with over $50,000 of IRS debt (and an IRS lien) who has already had her passport restricted set up a small IRS Installment Agreement and THEN get the passport restriction removed/released?"

The blog posting indicates yes:

Section 7345(b)(2) sets out the events that prevent debt from being SDFTD. These events are the taxpayer is (i) in an installment agreement (IA), (ii) [ ... ], (iii) [ ... ] or [ ... ]

Section 7345(c)(1) provides that certification shall be reversed if the debt "ceases to be seriously delinquent tax debt by reason of subsection (b)(2).

Reply

Ken Well says:
May 28, 2016 at 2:37 pm

>Mr. Blanton's question of May 5

I agree with Mr. Diamond. The new installment agreement should provide grounds to have the revocation reversed.

Reply

Keith heitman says:
July 11, 2016 at 12:16 am

If an individual's tax debt exceeds $50,000 and has been placed in non-collectable status can the IRS still revoke/deny a passport?

Reply

Keith Fogg says:
July 21, 2016 at 11:07 pm

Currently not collectible (CNC) status is an administrative designation and not one mentioned in the Code. Nothing in the statute creating revocation or denial of a passport addresses your question which means that a taxpayer could have their debt designated for referral to the State Department unless the IRS adopts administrative procedures which would cause it not to refer a case in CNC status. My guess is that the IRS will not adopt an administrative practice exempting individuals in CNC status and
that an individual in CNC status who otherwise meets the criteria under the statute could have their passport revoked or denied.

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Comment Policy: While we all have years of experience as practitioners and attorneys, and while Keith and Lee have taught for many years, we think our work is better when we get input from others. That is one of the reasons we solicit guest posts (and also because of the time it takes to write what we think are high quality posts). Involvement from others makes our site better. That is why we have kept our site open to comments.

If you want to make a public comment, you must identify yourself (using your first and last name) and register by including your email. If you do not, we will remove your comment. In a comment, if you disagree with or intend to criticize someone (such as the poster, another commenter, a party or counsel in a case), you must do so in a respectful manner. We reserve the right to delete comments. If your comment is obscene, mean-spirited or violates our sense of decency, we will remove the comment. While you have the right to say what you want, you do not have the right to say what you want on our blog.

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opportunity might be available in such kinds of pre-collection hearings when such hearings are provided.

Of course there are other problems too, such as sending a registered letter to the IRS in Washington DC, seeing the registered letter tracked to USPS in New York, and then seeing it disappear without any delivery, no return, and no answer to postal inquiry. Anything they can do to set the stage for passport revocation, it looks like they’ll do it.

[Section 7335 wasn’t the reason for revoking Bobby Fischer’s passport, but the technique was the same.]

Reply

Ken Well says:
February 19, 2016 at 2:00 pm

> So a Tax Court petition doesn’t even count?

The statute reads “administrative rights ... have exhausted or elapsed.” As § 6203(c) incorporates the provisions of § 6203(d), which provides for a Tax Court hearing, I think your premise that a Tax Court petition does not count is incorrect.

> Is assessment really required?

Yes. § 7335(b)(1)(A).

Your point about lack of notice because of USPS problems is well-taken.

Reply

abc says:
February 21, 2016 at 1:11 pm

What is the impact on those with dual citizenship? If a person is abroad in a country to which that individual also happens to have citizenship, and the IRS revokes the individual’s US passport, what then?

Reply

Ken Well says:
February 22, 2016 at 1:44 pm

Great question. Here is a link to a state department web site on dual citizenship. https://travel.state.gov/content/travel/en/legal-considerations/dual-citizenship/index.html?

Here are some thoughts. Passport revocations of citizens of countries will most likely include a time limit to reenter the US. That is implied in Fast Act § 3211(b)(c). If the dual citizen chooses to remain overseas, one would think that the dual citizen can just use the “other” country’s passport. Will that person be barred from entering the US because of the revoked US passport? Will that person lose US citizenship because that person is using “another” country’s passport? If the answer to the last question is yes, wouldn’t that trigger the expatriation tax? If the citizen already has SOTUS, would the expatriation tax ever be collected?

Reply

Norman Diamond says:
February 21, 2010 at 2:09 pm

Ken Well replied to me:

"As § 6321(c) incorporates the provisions of § 6330(d), which provides for a Tax Court hearing, I think your premise that a Tax Court petition does not count is incorrect.

Provision for a Tax Court hearing is a judicial right (by statute, as if the Fifth Amendment didn’t already provide it). If judicial rights were treated as administrative rights, lots of people would be denied judicial rights, because they have to exhaust administrative rights before a court acquires jurisdiction.

Reply:

Norman Diamond says:

February 21, 2010 at 2:20 pm

abc’s question is an understatement. "If a person is afraid to live in a country in which that individual also happens to have citizenship, and the IRS revokes the individual’s U.S. passport, what then?"

If a person has two or more citizenships, regardless of whether one of them is the country of residence or physical presence, what then? Bobby Fischer was in jail until Iceland issued him a passport, and Japan deported him to Iceland instead of to the US. If this statute had existed when IRS employees[*][**] framed me for fraud and if the asserted[***] penalties had been just a bit larger, and if my Japanese immigration stamps were still in my US passport, they could get me arrested too. Coincidence my Japanese immigration stamps had already been moved to my Canadian passport for different reasons, so hypothetical revocation of my US passport would only prevent me from travelling in the US while I held US citizenship.

Ken Well responded with questions:

(If the dual citizen chooses to remain overseas, one would think that the dual citizen can just use the "other" country’s passport:)

Yes, except for entry to the US and exit from the US.

"Will that person be barred from entering the US because of the revoked US passport?"

Almost. A different statute requires US citizens to use US passports to enter and exit the US. I think they can’t be legally be barred but they can be jailed. However, in view of the INS’s historical tendency to deport US citizens, I’m not sure if today’s successor to the IRS could do barring too.

"Will that person lose US citizenship because that person is using "another" country’s passport?"

No. If a US citizen or US non-citizen national has performed a potentially expatriating act, then subsequent use of a non-US passport to enter or exit the US could be used as evidence that the person had intent to expatriate at the time of performing the potentially expatriating act. But simply use (legally) of a non-US passport to enter or exit the US is not itself one of the listed potentially expatriating acts. (I used to be confused on this matter too. Experts at taxbreaksociety ca set me straight.)

[*] Likely including Monica Henander.
[**] Some of them, assessed.

Reply

http://procedurallytaxing.com/will-bankruptcy-get-your-passport-back-3/
Norman Diamond says:

I say: "However, in view of the IRS's historical tendency to deport U.S. citizens, I'm not sure if today's successor to the IRS could do barring too."

That could say today's successor to the IRS. Though in this context, it's the IRS too.

Reply:

Ken Wed says:

Here is a statute supporting Mr. Diamond's statement regarding dual citizens entering the US.

8 USC § 1188b(a). Except as otherwise provided by the President and subject to such limitations and exceptions as the President may authorize and prescribe, it shall be unlawful for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States unless he bears a valid United States passport.

Another website indicated that you could not get a US visa if you are also a US citizen. So, even more problems for the dual citizen. Presumably, the "other" passport will allow the person to travel elsewhere in the world.

Guess I am going to learn more about CBP (Customs and Border Protection) than I ever imagined.

Reply:

Jeff Blanton says:

Can a person with over $50,000 of IRS debt (and an IRS lien) who has already had her passport restricted set up a small IRS Installment Agreement and THEN get the passport restriction removed/released by the State Department or by IRS and then be able to visit her daughter in Europe?

Reply:

Norman Diamond says:

"Can a person with over $50,000 of IRS debt (and an IRS lien) who has already had her passport restricted set up a small IRS Installment Agreement and THEN get the passport restriction removed/released?"

The blog posting indicates yes:

Section 7345(b)(2) sets out the events that prevent debt from being SDTD. These events are the taxpayer is: (i) in an installment agreement (IA), (ii) [...], (iii) [...] or [...]"

Section 7345(c)(1) provides that certification shall be reversed if the debt "ceases to be seriously delinquent tax debt by reason of subsection (b)(2)."

Reply:

Ken Wed says:

http://procedurallytaxing.com/will-bankruptcy-get-your-passport-back-3/
Mr. Blanton’s question of May 5.

I agree with Mr. Diamond. The new installment agreement should provide grounds to have the revocation reversed.

Reply

Keith huitman says:
July 20, 2016 at 2:20 am

If an individual’s tax debt exceeds $50,000 and has been placed in non-collectable status can the IRS still revoke/deny a passport?

Reply

Keith Feng says:
July 21, 2016 at 10:12 pm

Currently not collectible (NC) status is an administrative designation and not one mentioned in the Code. Nothing in the statute creating revocation or denial of a passport addresses your question which means that a taxpayer could have their debt designated for referral to the State Department unless the IRS adopts administrative procedures which would cause it not to refer a case in NC status. My guess is that the IRS will not adopt an administrative practice exempting individuals in NC status and that an individual in NC status who otherwise meets the criteria under the statute could have their passport revoked or denied.

Reply

Comment Policy: While we all have years of experience as practitioners and attorneys, and while Keith and I have taught for many years, we think our work is better when we generate input from others. That is one of the reasons we solicit guest posts (and also because of the time it takes to write what we think are high quality posts). Involvement from others makes our site better. That is why we have kept our site open to comments.

If you want to make a public comment, you must identify yourself (using your first and last name) and register by including your email. If you do not, we will remove your comment. In a comment, if you disagree with or intend to criticize someone (such as the poster, another commenter, a party, or counsel in a case), you must do so in a respectful manner. We reserve the right to delete comments. If your comment is obnoxious, mean-spirited or violates our sense of decency we will remove the comment. While you have the right to say what you want, you do not have the right to say what you want on our blog.

Speak Your Mind

Name*