



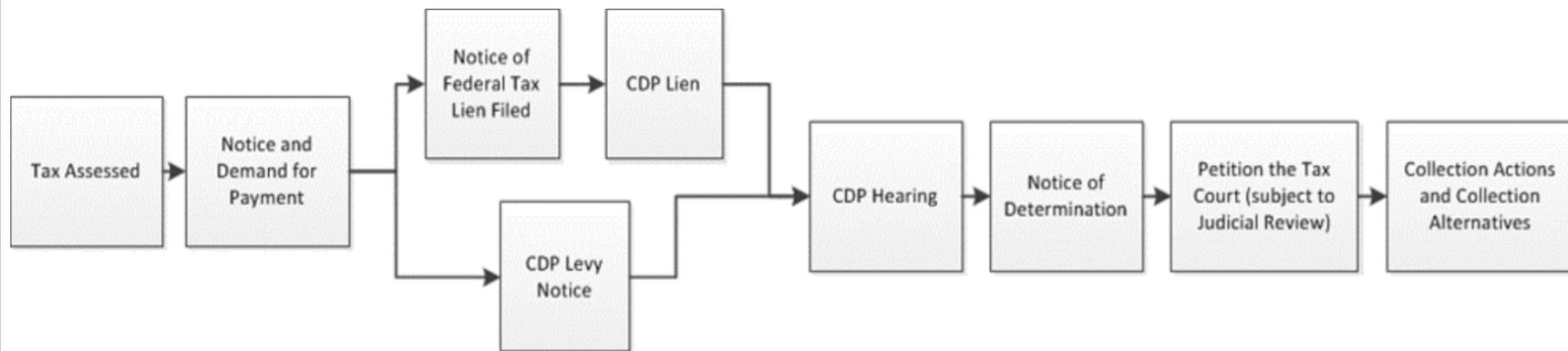
Nuts & Bolts Collections Workshop

A Guide to Assisting Pro Bono Clients with Collection Matters

Wednesday, March 7, 2018 | 1:00 PM Eastern
Sponsored by the ABA Section of Taxation

COLLECTING FEDERAL TAXES ASSESSMENT AND NOTICES

Overview of Tax Collection Cases



Assessment

- Collection starts with assessment
- Assessment generally results from taxpayer consent
- Assessment in this context is a term of art that should be used with care
- Assessing taxes simply describes the process of recording a liability
- Happens at Services Centers – Form 23c and RACs
- Once assessment occurs, the clock starts running on the Statute of Limitations for collection. The IRS can no longer collect on this debt once the the Collection Statute Expiration Date (CSED) has passed 10 years after the assessment date (unless the clock is paused for reasons discussed later).



Ways to Assess

- Filing of Tax Return
 - Self-Assessment
 - Data sufficient to calculate tax
 - Must purport to be a tax return
 - Must be honest and reasonable attempt to satisfy tax law requirements
 - Must be executed by the taxpayer under penalties of perjury
- Math Error
 - Automatic Assessment (I.R.C. Section 6213(b)(1))
- Examination
 - Deficiency Assessment through consent
 - Deficiency Assessment through default of notice of deficiency

Ways to Assess – cont'd.

- Substitute for Return (“SFR”)
 - IRS may execute its own return based on information obtained if the taxpayer fails to file a valid return or files a false or fraudulent return
 - I.R.C. Section 6020(b)(2) – SFR “shall be prima facie good and sufficient for all legal purposes”
 - I.R.C. Section 6501(b)(3) – SFR does not start statute of limitations (“SOL”) on assessment or collections
 - Assessment is made after a default on a notice of deficiency or with consent
- Tax Court decides against the taxpayer in whole or in part
- Restitution judgment

Considerations

- First step in representing taxpayer in collection case is determining correctness of assessment
 - Did taxpayer owe the assessed tax – if not consider refund claim or audit reconsideration
 - Did taxpayer validly consent to assessment – issue in joint return cases
 - Did IRS send notice of deficiency to taxpayer's last known address – if not attack validity of assessment but consider timing of attack
 - Did IRS obtain proper penalty approval – Graev considerations which are still developing



Notice Stream

- Notice and Demand
- 2nd and 3rd Letters – not required by statute
- Notice of Intent to Levy



Steps the IRS Takes to Collect after Assessment Begin with Notice and Demand Letter

- Initial Request for Payment – made by the Notice and Demand for Payment
 - Notice and Demand required to be sent by I.R.C. Section 6303 within 60 days of assessment
 - IRS usually sends Notice and Demand on Saturday, before the assessment is made on Monday

Steps the IRS Takes to Collect after Assessment Begin with Notice and Demand Letter – cont'd.

- Failure to send Notice and Demand does not invalidate an assessment,
But: It stops federal tax lien from coming into existence
- If the IRS properly sends the Notice and Demand and taxpayer fails to pay,
Then: The Federal Tax lien comes into existence through I.R.C. Sections 6321 and 6322

Notice and Demand (CP501)



Department of the Treasury
Internal Revenue Service
Holtsville, NY 11742-0480

8018999546711s
JAMES & KAREN Q. HINDS
22 BOULDER STREET
HANSON, CT 00000-7253

Notice	CP501
Tax year	2016
Notice date	January 30, 2017
Social security number	NNN-NN-NNNN
To contact us	1-800-829-0922
Your caller ID	NNNN
Page 1 of 6	

You have unpaid taxes for 2016
Amount due: \$9,533.53

Our records show you have unpaid taxes for the tax year ended December 31, 2016 (Form 1040NR).

If you already paid your balance in full within the last 21 days or made payment arrangements, please disregard this notice.

If you already have an installment or payment agreement in place for this tax year, then continue with that agreement.

Billing Summary

Amount you owed	\$9,444.07
Failure-to-pay penalty	34.98
Interest charges	54.48
Amount due by February 20, 2017	\$9,533.53

If you are a debtor in a bankruptcy case, this notice is for your information only and is not intended to seek payment outside of the bankruptcy process of taxes due before you filed your petition. You will not receive another notice of the balance due while the automatic stay remains in effect.

Continued on back...



James Q. Hinds
22 Boulder Street
Hanson, CT 00000-7253

Notice	CP501
Notice date	January 30, 2017
Social security number	NNN-NN-NNNN

Payment

- Make your check or money order payable to the United States Treasury.
- Write your social security number (NNN-NN-NNNN), the tax year (2016), and form number (1040NR) on your payment.

INTERNAL REVENUE SERVICE
CINCINNATI, OH 45999-0149
8018999546711s

- Amount due by February 20, 2017

\$9,533.53

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Second Reminder - Notice of Overdue Tax (CP503)

- If no action is taken after the CP501 Notice (Notice and Demand Letter), a CP503 Notice (Notice of Overdue Tax) will be sent
- The language in this notice is more serious than that in the previous notice, often instructing taxpayers to pay their balance due immediately
- Like the previous notice, a CP503 Notice will inform the taxpayer of the total balance due, including interest and penalties
- The total balance due will likely be higher than that stated on the CP501 Notice, since more interest and penalties will have accrued since the date of the first letter
- There is a Response section in which the IRS explains the steps the taxpayer needs to take.
- Taxpayers are usually given three options:
 - 1. Pay the balance in full
 - 2. Set up an installment plan
 - 3. Dispute the balance owed

Second Notice (CP503)



Department of the Treasury
Internal Revenue Service
Holtsville, NY 11742-0480

Notice	CP503
Tax year	2016
Notice date	January 30, 2017
Social security number	NNN-NN-NNNN
To contact us	1-800-829-0922
Your caller ID	NNNN
Page 1 of 6	

s018999546711s
JAMES & KAREN Q. HINDS
22 BOULDER STREET
HANSON, CT 00000-7253

Second reminder: You have unpaid taxes for 2016

Amount due: \$9,533.53

As we notified you before, our records show you have unpaid taxes for the tax year ended December 31, 2016 (Form 1040A). If you don't pay \$9,533.53 by February 20, 2017, the amount of interest will increase and additional penalties may apply.

Billing Summary

Amount you owed	\$9,444.07
Failure-to-pay penalty	34.98
Interest charges	54.48
Amount due by February 20, 2017	\$9,533.53

If you already have an installment or payment agreement in place for this tax year, then continue with that agreement.

What you need to do immediately

If you agree with the amount due and you're not working with an IRS representative

- Pay the amount due of \$9,533.53 by February 20, 2017, to avoid additional interest and applicable penalty charges.
- Pay online or mail a check or money order with the attached payment stub. **You can pay online now at www.irs.gov/payments.**

Continued on back...



James Q. Hinds
22 Boulder Street
Hanson, CT 00000-7253

Notice	CP503
Notice date	January 30, 2017
Social security number	NNN-NN-NNNN

Payment

- Make your check or money order payable to the United States Treasury.
- Write your social security number (NNN-NN-NNNN), the tax year (2016), and form number (1040A) on your payment.

INTERNAL REVENUE SERVICE
CINCINNATI, OH 4599-0149
s018999546711s

- **Amount due by February 20, 2017**

\$9,533.53

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Third Notice – “Urgent We Intend to Levy on Certain Assets” (CP504)

- The taxpayer still has an unpaid amount due on their account
- If the taxpayer does not address the matter immediately, the IRS will continue with its plan to levy the taxpayer’s state income tax refund and apply it to the pay the amount owed
 - The IRS will also begin searching for other assets on which to levy
- This is the Notice of Intent to Levy as required by I.R.C. Section 6331(d)
 - However, this is not the “final” notice of intent to levy
 - The final notice has to let you know of your rights to a hearing 30 days before the IRS levies a bank account or your wages
- IRS is changing this letter to remove statements that it can take the taxpayer’s property

Third Notice (CP504)



Department of the Treasury
Internal Revenue Service
Holtsville, NY 11742-0480

Notice	CP504
Tax year	2016
Notice date	January 30, 2017
Social security number	NNN-NN-NNNN
To contact us	1-800-829-0622
Your caller ID	NNNN
Page 1 of 6	

s018999546711s
JAMES & KAREN Q. HINDS
22 BOULDER STREET
HANSON, CT 00000-7253

Notice of intent to seize (levy) your property or rights to property
Amount due immediately: \$9,533.53

This is a notice of intent to levy your state tax refund or other property. As we notified you before, our records show you have unpaid taxes for the tax year ended December 31, 2016 (Form 1040A). If you don't call us immediately to make payment arrangements or pay the amount due, we may levy your property or rights to property and apply it to the \$9,533.53 you owe.

Billing Summary	
Amount you owed	\$9,444.07
Failure-to-pay penalty	34.98
Interest charges	54.48
Amount due immediately	\$9,533.53

What you need to do immediately

If you agree with the amount due and you're not working with an IRS representative

- Pay the amount due of \$9,533.53 immediately or we may file Notice of Federal Tax Lien, the amount of interest will increase, and additional penalties may apply.
- Pay online or mail a check or money order with the attached payment stub. You can pay online now at www.irs.gov/payments.

Continued on back...



James Q. Hinds
22 Boulder Street
Hanson, CT 00000-7253

Notice	CP504
Notice date	January 30, 2017
Social security number	NNN-NN-NNNN

Payment

- Make your check or money order payable to the United States Treasury.
- Write your social security number (NNN-NN-NNNN), the tax year (2016), and form number (1040A) on your payment.

INTERNAL REVENUE SERVICE
CINCINNATI, OH 45999-0149
s018999546711s

- Pay immediately

\$9,533.53

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Final Notice – Notice of Intent to Levy and Notice of Your Right to a Hearing

- LT11 or CP 90 – Final Notice of Intent to Levy satisfies pre-levy requirement set out in IRC 6330 and notifies taxpayer of the right to file a Collection Due Process (CDP) request with Appeals to stop the levy.
- Only the Final Notice of Intent to Levy provides notification of the rights to file a CDP request
- Only the sending of Final Notice of Intent to Levy permits the IRS to levy your wages, commissions, bank accounts, car, and home absent jeopardy
- Prior to issuance of Final Notice of Intent to Levy, IRS can levy on state tax refunds and it can levy if jeopardy exists
- If IRS levies prior to sending of Final Notice of Intent to Levy, the taxpayer receives CDP rights after levy

Final Notice (LT11/CP90)



Department of the Treasury
Internal Revenue Service
Philadelphia, PA 19255-0010

Notice	LT11
Notice date	March 2, 2017
Taxpayer ID number	Nnn-nn-nnnn
Case reference number	nnnn
To contact us	Phone 1-800-829-8374
Page 1 of 5	

s018999546711s
JAMES & KAREN Q. HINDS
22 BOULDER STREET
HANSON, CT 00000-7253

Notice of Intent to Levy and Notice of Your Right to a Hearing Intent to seize your property or rights to property Amount due immediately: \$4,823.12

We haven't received a payment despite sending you several notices about your overdue taxes. The IRS may seize (levy) your property or your rights to property on or after April 1, 2017.

- Property includes:
- Wages and other income
 - Bank accounts
 - Business assets
 - Personal assets (including your car and home)
 - Alaska Permanent Fund Dividend and state tax refund
 - Social Security benefits

Billing Summary

Amount you owed	\$4,309.00
Additional penalty charges	399.96
Additional interest charges	114.16
Amount due immediately	\$4,823.12

Continued on back ...



James & Karen Q. Hinds
22 Boulder Street
Hanson, CT 00000-7253

Notice	LT11
Notice date	March 2, 2017
Taxpayer ID number	Nnn-nn-nnnn

Payment

- Make your check or money order payable to the United States Treasury.
- Write your Social Security number (nn-nn-nnnn) on your payment and any correspondence.

• Amount due immediately

\$4,823.12

INTERNAL REVENUE SERVICE
PHILADELPHIA, PA 19255-0010
s018999546711s

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Collection Due Process

- The taxpayer has 30 days to request a CDP hearing after date of Final Notice of Intent to Levy
- Form 12153 is included with the Final Notice of Intent to Levy for use in filing CDP request
 - In filing CDP request it is important to identify all the reasons for any disagreement
- If the CDP request is timely made, taxpayer receives a CDP Appeals hearing and has the opportunity to seek judicial review of the results of that hearing with the Tax Court
- If the CDP request is untimely but within one year of the date of the Final Notice of Intent to Levy, the taxpayer receives an Equivalent Hearing with Appeals and cannot have the decision by Appeals reviewed by the Tax Court

Form **12153** (Rev. 12-2013) **Request for a Collection Due Process or Equivalent Hearing**

Use this form to request a Collection Due Process (CDP) or equivalent hearing with the IRS Office of Appeals if you have been issued one of the following lien or levy notices:

- Notice of Federal Tax Lien Filing and Your Right to a Hearing under IRC 6320,
- Notice of Intent to Levy and Notice of Your Right to a Hearing,
- Notice of Jeopardy Levy and Right of Appeal,
- Notice of Levy on Your State Tax Refund,
- Notice of Levy and Notice of Your Right to a Hearing.

Complete this form and send it to the address shown on your lien or levy notice. Include a copy of your lien or levy notice to ensure proper handling of your request.

Call the phone number on the notice or 1-800-829-1040 if you are not sure about the correct address or if you want to fax your request.

You can find a section explaining the deadline for requesting a Collection Due Process hearing in this form's instructions. If you've missed the deadline for requesting a CDP hearing, you must check line 7 (Equivalent Hearing) to request an equivalent hearing.

1. Taxpayer Name: (Taxpayer 1) _____
 Taxpayer Identification Number _____
 Current Address _____

City _____ State _____ Zip Code _____

2. Telephone Number and Best Time to Call During Normal Business Hours

Home () - _____	<input type="checkbox"/> am. <input type="checkbox"/> pm.
Work () - _____	<input type="checkbox"/> am. <input type="checkbox"/> pm.
Cell () - _____	<input type="checkbox"/> am. <input type="checkbox"/> pm.

3. Taxpayer Name: (Taxpayer 2) _____
 Taxpayer Identification Number _____
 Current Address _____

(If Different from Address Above) City _____ State _____ Zip Code _____

4. Telephone Number and Best Time to Call During Normal Business Hours

Home () - _____	<input type="checkbox"/> am. <input type="checkbox"/> pm.
Work () - _____	<input type="checkbox"/> am. <input type="checkbox"/> pm.
Cell () - _____	<input type="checkbox"/> am. <input type="checkbox"/> pm.

5. Tax Information as Shown on the Lien or Levy Notice *(If possible, attach a copy of the notice)*

Type of Tax (Income, Employment, Excise, etc. or Civil Penalty)	Tax Form Number (1040, 941, 720, etc)	Tax Period or Periods

Form **12153** (Rev. 12-2013) **Request for a Collection Due Process or Equivalent Hearing**

6. Basis for Hearing Request (Both boxes can be checked if you have received both a lien and levy notice)

- Filed Notice of Federal Tax Lien Proposed Levy or Actual Levy

7. Equivalent Hearing (See the instructions for more information on Equivalent Hearings)

- I would like an Equivalent Hearing - I would like a hearing equivalent to a CDP Hearing if my request for a CDP hearing does not meet the requirements for a timely CDP Hearing.

8. Check the most appropriate box for the reason you disagree with the filing of the lien or the levy. See page 4 of this form for examples. You can add more pages if you don't have enough space. If, during your CDP Hearing, you think you would like to discuss a Collection Alternative to the action proposed by the Collection function it is recommended you submit a completed Form 433A (Individual) and/or Form 433B (Business), as appropriate, with this form. See www.irs.gov for copies of the forms. Generally, the Office of Appeals will ask the Collection Function to review, verify and provide their opinion on any new information you submit. We will share their comments with you and give you the opportunity to respond.

- Collection Alternative Installment Agreement Offer in Compromise I Cannot Pay Balance
- Lien Subordination Discharge Withdrawal

Please explain: _____

My Spouse Is Responsible Innocent Spouse Relief (Please attach Form 8857, Request for Innocent Spouse Relief, to your request.)

Other (For examples, see page 4)
 Reason (You must provide a reason for the dispute or your request for a CDP hearing will not be honored. Use as much space as you need to explain the reason for your request. Attach extra pages if necessary.):

9. Signatures I understand the CDP hearing and any subsequent judicial review will suspend the statutory period of limitations for collection action. I also understand my representative or I must sign and date this request before the IRS Office of Appeals can accept it. If you are signing as an officer of a company add your title (president, secretary, etc.) behind your signature.

SIGN HERE

Taxpayer 1's Signature _____	Date _____
Taxpayer 2's Signature (If a joint request, both must sign) _____	Date _____

- I request my CDP hearing be held with my authorized representative (attach a copy of Form 2848)

Authorized Representative's Signature _____ Authorized Representative's Name _____ Telephone Number _____

IRS Use Only

IRS Employee (Print) _____	Employee Telephone Number _____	IRS Received Date _____
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COLLECTION ALTERNATIVES

Collection Alternatives

- Full Payment
- Installment agreement
- Offer in Compromise
- Currently Not Collectible
- Other Options

Full Payment

- Payment in full after assessment made
- Resolves any future payment obligations
- Avoid potential liens / levies
- May be difficult for low-income taxpayers depending on amount of tax liability

Installment Agreement

- Traditional installment agreement permits periodic payments over time until liability paid in full
- Partial pay installment agreements are available as an alternative to offer in compromise
- Both types are authorized under IRC section 6159
- Submission can be made online for certain liability amounts, (www.irs.gov/OPA), by phone, or by mail (Form 9465)
- Set-up fee required, but can be reduced based on income level
- All required returns must be filed to enter into installment agreement

Installment Agreement – cont'd.

- For Partial Pay agreements, IRS might seek to extend statute of limitation on collection
 - IRM 5.4.2, Partial Payment Installment Agreements and the Collection Statute Expiration Date
 - IRC section 6502(a)(2)(A)
- Payment Options
 - Direct debit
 - Payroll deductions
 - Electronic funds transfer
 - Check
- Take care not to promise to pay too much

Offer in Compromise

- Option where taxpayer cannot pay amount in full or through installment agreements
- Rules primarily contained in IRC 7122, the regulations thereunder, and the Internal Revenue Manual
- Types of offers
 - Doubt as to Liability
 - Doubt as to Collectibility
 - Effective Tax Administration
- Like installment agreements, all required tax returns must be filed

Offer in Compromise – cont'd.

- Submission (Form 656 or 656-L (doubt as to liability))
- Low income taxpayers often qualify for waiver of application fee
- Payment options
 - Lump sum
 - Periodic payments

Offer in Compromise – cont'd.

- Evaluation
 - Expansive authority given to IRS to decide whether to accept offer in compromise (IRS writes the rules and applies them)
 - IRS mandated to create income guidelines
 - IRS mandated not to follow guidelines blindly
 - Special rules
 - No offer amount too low for low income taxpayers
 - No financial statement required for doubt as to liability offers
 - IRS should process doubt as to liability offer if it cannot locate tax return to which offer relates

Offer in Compromise – cont'd.

- Administrative Review
 - Initial review and determination
 - Appeals rights if offer denied
- Deemed Acceptance
 - Unlikely to happen but does put some pressure on IRS
- Frivolous Submission
 - IRS need not consider frivolous offers

Offer in Compromise – cont'd.

- Effect on collection activity
 - Generally suspends collection action
 - Syncs with extension of statute of limitations
- Effect of bankruptcy
 - IRS will not process an offer while bankruptcy is pending
 - A taxpayer who wants to compromise the amount he owes while in bankruptcy can request that the IRS accept less than required under the bankruptcy laws

Offer in Compromise – cont'd.

- Offset
 - IRS will continue to offset refunds through tax year in which offer is accepted
 - Taxpayer may want to adjust withholding to avoid refund that would be used as offset while offer is pending
- Department of Justice
 - If case has been referred to DOJ, settlement authority is with DOJ
 - DOJ usually requests views of IRS, but retains full settlement authority to compromise any matter referred to it regardless of IRS views

Offer in Compromise – cont'd.

- Analysis of Offers (and other collection alternatives)
 - Financial Analysis Handbook – IRM 5.15.1
 - Form 433 (note that this gives the IRS a roadmap for future levy action if agreement cannot be reached)
 - Determine assets
 - Determine income and allowable expenses
 - National Standards for Food, Clothing, etc., and Out of Pocket Health Costs
 - Local Standards for Housing and Transportation
 - Other necessary expenses
- Five year commitment to “keep clean” or have liability reinstated

Currently Not Collectible

- Taxpayer cannot pay tax debt and reasonable living expenses
- IRS generally will not try to collect when taxpayer is in CNC
 - However, the IRS will still assess interest and penalties, and offset refunds against tax debt
 - IRS will send annual bill
- IRS may ask taxpayer to file any past due returns as condition to CNC status
- IRS may ask taxpayer to provide financial information, including income and expenses, and whether taxpayer can sell any assets or get a loan
- IRS may review income annually to see if financial situation has improved

Currently Not Collectible – cont'd.

- IRS generally can attempt to collect taxes up to ten years from the date they were assessed, though the ten-year period is suspended in certain circumstances
 - See IRC sections 6502 and 6503
- CNC does not extend the collection period
 - If ten-year period expires, taxpayer generally will not have to pay the debt

Collection Due Process

- Gives taxpayer a chance to discuss collection alternatives with IRS Appeals in an independent forum
- Available after IRS files Notice of Federal Tax Lien and before IRS levies
 - See IRC sections 6320, 6330, and 6331
- Taxpayer has 30 days following receipt of notice of intent to levy or notice of lien filing within which to request a Collection Due Process (CDP) hearing with Appeals

Collection Due Process – cont'd.

- Taxpayer can raise innocent spouse defense during CDP hearing (see later slides)
- Taxpayer can raise merits of tax liability during CDP hearing if the taxpayer did not previously have the opportunity to do so
- Appeals Officer must verify that IRS has complied with all procedural requirements that predicate lien or levy action
- If taxpayer cannot reach agreement with Appeals, a determination letter is issued and taxpayer has 30 days to petition the Tax Court
- Difficult for taxpayers to prevail in court, but remand to IRS Appeals may be beneficial to reach resolution

Other Options

- Request for Relief from Joint and Several Liability
 - Full or partial relief possible
 - Res judicata
- Bankruptcy



OVERVIEW OF COLLECTION INFORMATION STATEMENTS

What are Collection Information Statements?

- Individuals: IRS Form 433-A or 433-F
 - Simple cases can use Form 433-F
 - Businesses: IRS Form 433-B
 - OIC cases use Form 433-OIC
- Captures information about a taxpayer's financial situation

Form **433-A**
(Rev. December 2012)
Department of the Treasury
Internal Revenue Service

**Collection Information Statement for Wage
Earners and Self-Employed Individuals**

Why are CIS Important?

- Used by IRS to determine if and how much a taxpayer can pay
- Used by you to determine what collection alternative is feasible for your client
- Sworn statement: Must be complete and accurate
- Note: IRS will have information from other sources
 - Real estate tax reports
 - Local property records
 - Credit reports
 - Motor vehicle records

IRS Considerations in Collection

- Will a taxpayer be able to pay basic living expenses if the taxpayer pays a tax debt?
- Can a taxpayer pay a tax liability in full with cash, by liquidating an asset or by using credit?
- See IRM 5.15.1, Financial Analysis Handbook

Income for 433-A and 433-F

- Disclose gross income from W-2s and net income from businesses and rental property
 - IRS may request household information (including income from household members not liable for the tax) to determine TP's ability to pay, however generally only the TP's income and assets are used to determine ability to pay
 - Exception: community property states
- Income includes child support and alimony/maintenance
- Disclose all income, even if it is not subject to levy
 - E.g. SNAP (food stamps)

Allowable expenses for 433-A and 433-F

- See Pub. 1854
- IRS has national standards for food, clothing and other expenses.
- The amount varies based on family size
- For these expenses, use the allowable standard unless TP can document why a higher amount is necessary

Total Monthly National Standards for Food, Clothing and Misc. (Section 5, item 35)

Effective 03/27/2017

Expense	One Person	Two Persons	Three Persons	Four Persons
Food	\$345	\$612	\$737	\$845
Housekeeping supplies	\$32	\$65	\$66	\$65
Apparel & services	\$83	\$138	\$193	\$293
Personal care products & services	\$36	\$63	\$73	\$77
Miscellaneous	\$143	\$254	\$309	\$370
Total	\$639	\$1,132	\$1,378	\$1,650

More than four persons	Over Four Persons Amount
For each additional person, add to four-person total allowance:	\$325

Allowable Expenses – cont'd.

- Local Standards: IRS has maximum allowances based on local standards for:
 - Housing and utilities
 - Use lesser of actual or the standard
 - Housing costs include costs for insurance, property taxes and internet or cable costs
 - IRS may allow higher expenses in unusual circumstances
 - Transportation
 - Use standard for public transportation
 - For vehicle ownership and operating expenses, use lesser of actual or the standard. IRS may allow higher expenses in unusual circumstances.

Allowable Expenses – cont'd.

- IRS may allow other expenses that are “Necessary” or “Conditional” based on the taxpayer’s situation
- IRS will allow actual expenses for:
 - Child/dependent care
 - Life insurance (term, not whole)
 - Health insurance
 - Current year taxes (income, FICA)
 - Payments on secured debts
 - Delinquent state or local taxes
 - Court ordered payments
 - Other necessary payments (e.g. student loans)
- Request documentation from your client for the above expenses

Allowable Expenses – cont'd.

- IRS will generally not allow expenses for the following:
 - Payments toward credit card debt
 - Payments toward unsecured debt
 - Retirement contributions
 - Charitable contributions
 - Tuition for school

Common Issues: Roommates

How do you determine household income and expenses if you live with roommates? It depends on the facts.

- If TP and roommates have separate residences in the same building, they do not share expenses and have separate living arrangements, such as separate kitchens and entrances, the IRS may not need information from the roommates (Separate households under one roof)
- If TP splits expenses with roommates but does not commingle income, IRS may solely need info on how expenses are split (rental agreement)
- If income is mingled, IRS will determine TP's percentage of household income and allow taxpayer to claim that percentage of shared expenses

CIS must be complete and accurate

Tips:

- Client can complete it, but go over info with client very carefully
- Check the client's documentation to be sure it matches the form:
 - Review last three bank statements
 - Review last three paystubs
 - Review Social Security or other benefits award letter
 - Review last vehicle loan statement
- Clients often forget to include income, expenses, assets, and other items. They don't know about the standards for expenses. They skip whole sections.
- Clients have difficulty remembering if they have been party to a lawsuit. Searching public records or looking at a credit report can be helpful.
- Vehicle value can be determined using Kelly Blue Book

Thank You

- To be connected with volunteer opportunities, contact ABA Tax Section Counsel Megan Newman at Megan.Newman@americanbar.org