CPA Practice Advisor

have been certified by the IRS to have seriously delinquent tax debt.

Dave DuVal • Mar. 11, 2020

Thanks to an obscure provision that Congress slipped into the *Fixing America's Surface Transportation* (FAST) *Act* in 2015, the IRS is permitted to request that the U.S. State Department deny new passport applications and renewals, or revoke the currently active passports of taxpayers who have been certified by the IRS to have ***seriously delinquent tax debt.***

This provision in the tax code should be on the radar of every tax practitioner, for the

Understanding these provisions and guiding clients who are in danger of having or have already had their passports revoked through this process adds an invaluable service to your practice and may even gain you an ardent client that will refer your services to others.

The FAST Act defines ***seriously delinquent tax debt*** as:

- A tax debt which has been assessed (this does not include other debts the IRS collects such as FBAR penalties or back child support), **AND**

- That is greater than $50,000, including penalties and interest and indexed yearly for inflation (for 2019 the amount was $52,000, and for 2020 the amount is $53,000), **AND**

- Where the IRS has filed a tax lien under IRC §6323, and the taxpayer's rights to dispute through a Collection Due Process (CDP) hearing under IRC §6320 have been exhausted or lapsed, **OR**

- Where a levy has been issued under IRC §6331.

In February 2018, the IRS began sending to the State Department certifications of taxpayers who had seriously delinquent tax debt. Once the IRS contacts the State Department, the IRS is required to send affected taxpayers notice CP 508C to their last known address to notify them of the impending passport revocation. Frustratingly to both taxpayers and tax practitioners, the IRS does not send a copy of Notice CP 508C to the taxpayer's Power of Attorney on file. This means that if a taxpayer who submitted a completed Power of Attorney to the IRS giving their tax practitioner authority to contact the IRS on their behalf while they are overseas, their practitioner will not be aware of the situation until the taxpayer can reach them.

In July 2019, the IRS began sending Letter 6152 *Notice of Intent to Request U.S.*

passport, as the State Department will immediately revoke the currently active passports of taxpayers who have been certified as having seriously delinquent tax debt. Previously, taxpayers found respite with the Taxpayer Advocate's Office (TAS). Taxpayers who were actively working with TAS to resolve their collection issues were able to keep their passport if the IRS had not already certified to the State Department the taxpayer's debt. However, as of October 2019, this reprieve is no longer available as the IRS was concerned taxpayers would take unfair advantage of the benefit.

If a taxpayer receives Letter 6152 and has imminent plans to travel out of the country, the IRS should be contacted immediately, because, under certain circumstances, the IRS may be able to expedite their case. Taxpayers may qualify for expedited service from the IRS to resolve their passport issue if they provide documentation showing they are scheduled to travel internationally within the next 45 days or provide proof that they live abroad. Furthermore, the taxpayer must provide a letter from the State Department that shows their passport application has been denied or that their active passport is being revoked.

So, how can we assist a taxpayer who may find themselves vulnerable to having their passports revoked? Making clients aware of the provision and the ways to ward off a passport revocation is the first line of a good offense and defense. One way this can be accomplished is by providing information on your website and on your tax questionnaire. Another proactive recommendation you can give your clients is to remind them of the importance of monitoring their credit with the three main credit bureaus, bank and investment accounts, and credit card statements. The proliferation of identity theft can leave an unsuspecting taxpayer holding the bag for a tax debt that does not belong to them.

If your client has the means to pay the amount due in full, the taxpayer should do so

situations where the IRS is supposed to refrain from revoking or denying a taxpayer's passport. The IRS generally will not request the State Department to revoke or deny the taxpayer's passport in any of the following cases where:

- A taxpayer has set up and is making timely payments on an Installment Agreement;
- Is working with the IRS on an Offer in Compromise (also known as an OIC agreement);
- Has filed a valid and timely Collection Due Process (CDP) hearing;
- Has filed for innocent spouse relief; or
- Has entered into a settlement agreement with the Department of Justice.

The law is intended to protect taxpayers with certain hardships from having their passports revoked. These hardships include taxpayers who are in bankruptcy, a victim of tax-related identity theft, who are placed in currently not collectible status by the IRS, located in a federally declared disaster area, in the military serving in a combat zone, or deceased. However, as with most large bureaucratic institutions, mistakes can happen, and there have been instances when taxpayers who were already cooperating with the IRS in resolving their tax debt have had their passports erroneously revoked. This is why staying in close contact with the IRS while representing a taxpayer with seriously delinquent tax debt is half the job. You know what they say about that squeaky wheel.

The IRS has stated that it takes approximately 30 days to reverse a passport revocation, and then will provide notification to the Department of State of the decertification "as soon as practicable.[1]" Guidance has not been provided as to the length of time "practicable" is to the IRS. Both taxpayers and the Taxpayer Advocate

Service (TAS) have reported that it is taking much longer than 30 days. The IRS has a

losing their passport can feel overwhelming and impossible to overcome. This is where we, as tax practitioners, can walk beside our clients and help them through this frightening time with sound advice and solutions. For those CPAs and Enrolled Agents who are representing their client's in a passport revocation case, part of excellent service is knowing when to call for reinforcements. If your client has their passport revoked while overseas and they are facing imminent jeopardy, referring them to a qualified attorney specializing in this field can be the greatest act of representation you can provide your client.

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[1] *IRS.gov*. "Revocation or Denial of Passport in Case of Certain Unpaid Taxes." https://www.irs.gov/businesses/small-businesses-self-employed/revocation-or-denial-of-passport-in-case-of-certain-unpaid-taxes

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