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# Intro to Collections

## The Basics of the IRS Collection Process

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# Lecture Introduction

This is an introductory course of IRS collections. The course will cover the fundamentals of the IRS collection system and the skill set needed by those Circular 230 practitioners just beginning to represent clients before Collections.

# Impact of 2012 Changes

- Last change of this significance may have been RRA 98.
  - Codified OIC
  - Granted statutory rights to IAs.
  - Provided for taxpayer appeal rights.
- IRS acting more like a business?
  - Fresh Start Initiative
  - Streamlined OIC and IA
  - Lien filing and withdrawal changes
  - OIC and IA financial analysis changes

# Overview

- Collections is concerned with how to get the money not necessarily what led to the debt.
- Collections' mission is to collect Federal taxes that are reported or assessed and not paid, and to secure tax returns that have not been filed.
- The Collections process begins when a return is filed and the balance is not paid in full.
- Keep your address current.

# Circular 230 and OPR

- Circular 230 outlines the rules for who and how one may practice before the IRS.
- Representation not previously thought to be “practice before the IRS.”
- Office of Professional Responsibility (OPR)
- Recent changes to Circular 230 more clearly define OPR’s authority over taxpayer representatives.

# The Numbers

- Taxpayers pay 84% of all taxes voluntarily and on time (TAO, '11).
- The IRS will collect another 3% through late payments and enforcement.
- Recent numbers presented by the National Taxpayer Advocate suggest that most debt is inadvertent, not intentional.

# The Numbers

## (FY 2012 IRS Data Book)

- \$124,304,282,000 in unpaid assessments
- \$31,104,079,000 net amount collected by Collections
- 11,464,000 collection cases in ending inventory
- \$18,034,976 assessed as a result of returns collected by Collections



# How Did the Taxpayer Get Here?

- Non-payment or underpayment of tax
- Audit
- IRS corrections, such as an erroneous refund
- Misapplied or returned payments
- Math errors
- Unfiled returns

# Compliance

Compliance is the filing and paying of current taxes in addition to the filing of all returns through the current date.

- Required to resolve any tax debt.
- Proof of paying taxes is required by IRS.
- SFRs and 6020(b) returns - Returns prepared by the IRS.

# Representative Guidance

- Internal Revenue Manual, Part 5
- Circular 230
- Publications 1, 594, 1660
- NAEA, other professional affiliates

# Second Chances

- The beginning to Collections' notice phase and a taxpayer's opportunity to pay a debt before it gets more serious.
- The IRS contact at this phase is rather tame but required by statute.
- The IRS' goal is to encourage voluntary payment of the past due taxes.

# Collections' State of Mind

- Secure full payment of the tax debt.
- Secure a partial payment that day.
- Attempt to secure financial information that may be used to take enforcement action.
- Set a deadline for information or other follow up.
- Not necessary to explain what led to accrual.

# IRS Notices/Forms to Recognize

- CP 14/ CP 161 – An introduction to the debt
- CP 501 – CP 504 – Getting your attention
- Forms 668-A & 668-W – Notice of Levy
- Letter 1058, LT 11, CP 90, CP 297 – CDP Rights
- Letter 3174 – The “refresher” notice
- Forms 433-F, 433-A, and 433-B
- Installment Agreement Acceptance – The resurgence of the 433-D with DDIA's

# Contacting the IRS

- Priority Practitioner Service (not Collections)
  - 866.860.4259
- IRS Customer Service (not Collections)
  - I: 800.829.1040 B: 800.829.4933
- Automated Collection System
  - 800.829.3903
- Large Dollar Cases (Abandoned in 2011, back, kind of, in 2013). New thresholds.
  - 800.829.7650, ext. 92069
- Revenue Officers

# Who will the IRS Contact?

Generally no one directly by phone. At least not until a case is assigned to a Revenue Officer. Collections relies on a strong mail campaign and taxpayer initiating telephone contact. It makes very few outbound calls.

If the IRS contacts a taxpayer with a Power of Attorney have the taxpayer politely refer them to the POA.



# Interest and Penalty

- Interest will not be waived.
- Penalties can be waived if the IRS accepts the explanation for the accrual as “reasonable cause”. Request should be made in writing.
- FTA – First Time Abatement
- Interest – Federal short-term rate plus 3%.
- Penalty – Generally a maximum of 25%.

# Notice of Federal Tax Lien

- A Statutory lien exists ten days after demand for payment is made. This is an “automatic” lien and gives the IRS an interest in a taxpayer’s property.
- A Notice of Federal Tax Lien filing is done by the IRS in compliance with UCC rules to put a taxpayer’s general creditors on notice of the existence of a federal tax debt.
- 708,000 tax liens filed in fiscal year 2012 representing a significant decrease compared to 2011.

# Enforcement

Enforcement is the IRS exercising its right to take money or property in order to satisfy a tax debt as defined in IRC section 6331 and discussed in IRM 5.10 and 5.11.

- Liens are not generally considered enforcement tools.
- Levy – 2.96M in 2012
- Seizure – 733 in 2012

# Tax Debt Resolutions

- Extension of Time to Pay
- Installment Agreement
  - Traditional
  - Guaranteed
  - Streamlined (\$0 to 25k; \$25,001-50k)
  - Part Pay
  - Direct Debit
  - In-Business Trust Fund Agreements

# Pending Status

- An essential component to pursuing the resolution of an IRS debt.
- A formal status granted to cases for which an installment agreement has been requested.
- Generally protects a taxpayer from adverse action while the plan is considered.
- To acquire pending status the proposal must meet the following criteria:
  - Have all returns filed
  - Identify taxpayer
  - Identify the tax liability
  - Propose a monthly or other periodic specific amount
  - It is NOT required to be in compliance with ES or federal tax deposits

## Resolutions (cont.)

- Offer in Compromise
  - A settlement of the debt
  - Requires a fee and down payment (TIPRA) consisting of either 20% of the offer or monthly payments
- Currently Not Collectible (CNC)
  - Not a permanent resolution.
- Collection Statute Expiration (CSED)

# Appeals

- Collection Due Process Hearing Request
  - File using form 12153
  - In response to Letter 1058, Intent to Levy or the Filing of a Notice of Federal Tax Lien.
- Collection Appeals Program
  - In response to any proposed or actual action by Collections.
  - Usually requires a manager conference with exception of defaulted installment agreement.

# Preparing for a Collection Case

- Completed Power of Attorney, Form 2848
- Review recent IRS notices
- Complete forms 433-F, 433-A, or 433-B
- Initial analysis of financial condition
- Supporting documentation
- Other factors to consider
- Taking Action



# Resources

- Taxpayer Advocate – Responsible for assisting with taxpayer cases and making recommendations to Congress about ways for IRS to improve.
- Stakeholder Liaison
- IRS Collections Chain of Command
- NAEA and its affiliates

# Helpful Hints

- Take notes
- Be proactive
- Always secure a deadline and a consequence for missing the deadline.
- Pick your battles
- Ask questions and be clear

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