**Weekly Webinar – Week #12 – 2016**

**Housekeeping Items**

IRS and Outside Collection Agencies – At this point, it appears that the IRS is waiting until after filing season to pursue the appointment of outside collection agencies. We have not heard from any collection agencies, nor have our clients. If you hear from one, please pass it along.

**Training**

**NOTICE:**

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](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i56610adc19d811dcb1a9c7f8ee2eaa77&SrcDocId=T0NLCOMREP%3A2057.1-1&feature=tcheckpoint&lastCpReqId=1232967" \t "_top) or [6331](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i57d3139219d811dcb1a9c7f8ee2eaa77&SrcDocId=T0NLCOMREP%3A2057.1-1&feature=tcheckpoint&lastCpReqId=1232967" \t "_top).

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 decertifies 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 Commissioner **must generally decertify within 30 days** of the event that requires decertification. The Commissioner must provide the notice of decertification to the Secretary of the Treasury, who must in turn promptly notify the Secretary of State of the decertification. The Secretary of State must delete the certification from the records regarding that taxpayer

**¶ 1721. Revocation or denial of passport if unpaid taxes exceed $50,000**

The State Department is responsible for granting, issuing and verifying passports. The State Department may refuse to issue or renew a passport if the applicant owes child support in excess of $2,500 or owes certain types of federal debts (e.g., expenses incurred in repatriation of the applicant or his family). (22 USC 211(a); 22 USC 51.60(a)) Any individual who applies for a passport is required to provide a social security number or taxpayer identification number. Failure to do so is reported by the State Department to the IRS and may result in a $500 fine. ( [FTC 2d/Fin ¶S-3655](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i7b902ca8746711dd83190a48867caa77&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615" \t "_top) , [FTC 2d/Fin ¶S-3699.3](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i5c9d8d402f6311db9654c7f8ee2eaa77&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615" \t "_top) ; [USTR ¶60,39E4](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i27efb17ca2f711dd95aa0a48867caa77&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615" \t "_top) )

Returns and return information are confidential and may not be disclosed by IRS, other federal employees, and other persons having access to the information, except as provided in the Code. Disclosure of return information is permitted, however, under certain circumstances, including for purposes of reviewing an application for a federal loan and administering the Medicare program. ( [FTC 2d/Fin ¶S-6200](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i69e6ffe02f6311db9654c7f8ee2eaa77&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615" \t "_top) , [FTC 2d/Fin ¶S-6300](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i6a6e4bee2f6311db9654c7f8ee2eaa77&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615" \t "_top) , [FTC 2d/Fin ¶S-6367.2](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i6bd1fbe82f6311db9654c7f8ee2eaa77&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615" \t "_top) , [FTC 2d/Fin ¶S-6367.5](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i77c5525d0f35e1d4be0aa1df689bee58&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615" \t "_top) , [FTC 2d/Fin ¶S-6368](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=if3a51e8860e811de9f6f0a48868caa77&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615" \t "_top) , [FTC 2d/Fin ¶S-6400](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i6bf0e5122f6311db9654c7f8ee2eaa77&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615" \t "_top) , [FTC 2d/Fin ¶S-6411](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=ifb47a4124a3e11db88abc7f8ee2eaa77&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615" \t "_top) ; [USTR ¶61,034](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i2aee05c2a2f711dd95aa0a48867caa77&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615" \t "_top) , [USTR ¶61,034.01](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i2af2be46a2f711dd95aa0a48867caa77&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615" \t "_top) )

Before the 2015 Fixing America's Surface Transportation Act (the FAST Act), IRS was not authorized to disclose tax information to the State Department, and the State Department generally did not have the authority to refuse to issue or revoke a passport because an applicant owed federal taxes.

**New Law.** Under the FAST Act, if an individual has a seriously delinquent federal tax debt (defined below), IRS will transmit a certification to the State Department for action as to denial, revocation or limitation of a passport. [(Code Sec. 7345(a) as added by 2015 FAST Act §32101(a))](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i850e7e133777ef8bc068eff8af04b69c&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615&pinpnt=NLCDE%3A16037.3&d=d" \l "NLCDE:16037.3" \t "_top) Individuals whose names are included on the certifications provided to the State Department are ineligible for a passport. [(Com Rept, see ¶5202)](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i3cf8b052fbd8e350abb58c52b3787fdb&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615" \t "_top)

Seriously delinquent tax debt. Under the 2015 Fast Act, a seriously delinquent tax debt is a federal tax liability of an individual in excess of $50,000 for which (1) a notice of lien has been filed under [Code Sec. 6323](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i5682023219d811dcb1a9c7f8ee2eaa77&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615" \t "_top) and the administrative rights under [Code Sec. 6320](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i56610adc19d811dcb1a9c7f8ee2eaa77&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615" \t "_top) for that filing have been exhausted or have lapsed, or (2) a notice of levy has been filed under [Code Sec. 6331](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i57d3139219d811dcb1a9c7f8ee2eaa77&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615" \t "_top).[(Code Sec. 7345(b)(1) as added by 2015 FAST Act §32101(a))](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i850e7e133777ef8bc068eff8af04b69c&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615&pinpnt=NLCDE%3A16037.7&d=d" \l "NLCDE:16037.7" \t "_top) The term, however, does not include a debt (1) that is being paid in a timely manner under an installment agreement or offer-in-compromise, and (2) for which a collection action is suspended because a collection due process hearing has been requested or is pending or innocent spouse relief has been requested. [(Code Sec. 7345(b)(2))](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i850e7e133777ef8bc068eff8af04b69c&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615&pinpnt=NLCDE%3A16037.10&d=d" \l "NLCDE:16037.10" \t "_top)

For purposes of calculating the $50,000 threshold, interest and penalties are included. [(Com Rept, see ¶5202)](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i3cf8b052fbd8e350abb58c52b3787fdb&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615" \t "_top)

The $50,000 amount will be adjusted annually for inflation. (Code Sec. 7345(f) as amended by 2015 FAST Act §32101(a))

Authority to deny or revoke passport. Under the 2015 FAST Act, the State Department is prohibited from issuing a passport to an individual upon receipt of certification from IRS. However, the State Department can issue a passport in emergency or humanitarian situations. [(2015 FAST Act §32101(e)(1))](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=iNLACT%3A395.4940&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615&pinpnt=NLACT%3A395.4956&d=d" \l "NLACT:395.4956" \t "_top)

The State Department is permitted to revoke a passport previously issued to an individual who has a seriously delinquent tax debt. If a passport of a seriously delinquent taxpayer is revoked, then before revocation, the State Department may:

* (1)  limit a previously issued passport only for return travel to the U.S., or
* (2)  issue a limited passport that only permits return travel to the U.S. [(2015 FAST Act §32101(e)(2))](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=iNLACT%3A395.4940&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615&pinpnt=NLACT%3A395.4960&d=d" \l "NLACT:395.4960" \t "_top)

The State Department and IRS will be held harmless as to any action with respect to any certification regarding a seriously delinquent taxpayer. [(2015 FAST Act §32101(e)(3))](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=iNLACT%3A395.4940&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615&pinpnt=NLACT%3A395.4965&d=d" \l "NLACT:395.4965" \t "_top)

Reversal of certification. The 2015 FAST Act provides that where IRS has certified that an individual has a seriously delinquent federal tax debt, IRS must notify the State Department if:

* (1)  the certification is erroneous, or
* (2)  the debt is fully satisfied or ceases to be a seriously delinquent tax debt because a collection due process hearing has been requested or is pending or innocent spouse relief has been requested. [(Code Sec. 7345(c)(1) as added by 2015 FAST Act §32101(a))](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i850e7e133777ef8bc068eff8af04b69c&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615&pinpnt=NLCDE%3A16037.17&d=d" \l "NLCDE:16037.17" \t "_top)

If the debt has been fully satisfied or has become legally unenforceable, the notification must be made not later than the date required for issuing the certificate of release of lien for debt under [Code Sec. 6325(a)](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i5747cce219d811dcb1a9c7f8ee2eaa77&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615&pinpnt=TCODE%3A33173.1&d=d" \l "TCODE:33173.1" \t "_top). If an innocent spouse relief election or request for equitable relief has been made, the notification must be made not later than 30 days after the election or request. [(Code Sec. 7345(c)(2))](https://checkpoint.riag.com/app/main/docLinkNew?usid=356eb4yb0abd&DocID=i850e7e133777ef8bc068eff8af04b69c&SrcDocId=T0NLANA%3A11461.1-1&feature=tcheckpoint&lastCpReqId=1231615&pinpnt=NLCDE%3A16037.18&d=d" \l "NLCDE:16037.18" \t "_top) If a debt has been timely paid under an installment agreement or an offer-in-compromise, the notification must be made not later than 30 days after the agreement is entered into or the offer is accepted by IRS. (Code Sec. 7345(c)(2)(C)) If a certification is found to be erroneous, the notification must be made as soon as practicable after the finding. (Code Sec. 7345(c)(2)(D))

IRS must contemporaneously notify an individual if it sends a certification to the State Department that the individual has a seriously delinquent tax debt, or if that certification has been reversed. The notice must include a description in simple and nontechnical terms of the individual's right to bring a civil action under Code Sec. 7345(e). (Code Sec. 7345(d) as added by 2015 FAST Act §32101(a))

Once an individual receives contemporaneous notice under Code Sec. 7345(d), the individual may bring a civil action against the U.S. in a U.S. district court or the Tax Court to determine whether the certification was erroneous or whether IRS failed to reverse the certification. If the court determines that the certification was erroneous, the court may order the IRS to notify the State Department that the certification was erroneous. (Code Sec. 7345(e))

**Tax Cheat of the Week**

**No Bonuses for Tax Cheats Act**

S.2215 – 114th congress (2015-2016) – Submitted by Senator Richard Burr (R-NC) - This bill prohibits the Department of the Treasury from providing any discretionary performance award to any employee of the Internal Revenue Service (IRS) with respect to whom there is substantial evidence of misconduct or a seriously delinquent tax debt. Treasury shall consider such a denial or withholding of a discretionary performance award as an action necessary to protect the integrity of the IRS, for purposes of any collective bargaining agreement.