

ABA Section of Taxation

American Bar Association -- Section of Taxation

ABA

May 6, 2016 4:30:00 PM

2016 May Meeting

Panel Name: Dealing with the IRS Collection Division: An Update on IRS Collection Procedures
Committee Name: Closely Held Businesses

Slides: Dealing with the IRS Collection Division: An Update on IRS Collection Procedures [FNa]

Kristen Bailey
Darren John Guillot
Eric L. Green
Gregory Wilson

Copyright (c) 2016 The American Bar Association, Kristen
Bailey, Darren John Guillot, Eric L. Green and Gregory Wilson

Green & sklarz llc

Dealing with the IRS Collection Division: An Update on IRS Collection Procedures

Closely Held Businesses Committee

Presented by:

Eric L. Green, Esq, Green & Sklarz LLC, New Haven, CT

Gregory R. Wilson, Esq. Attorney-at-Law, San Francisco, CA

Darren J. Guillot, Director, IRS Field Collection Operations, Washington, DC

Kristen E. Bailey, Director of IRS Collection Policy, Washington, DC

Field Collection Operations'

Employment Tax

Compliance Efforts

FY 2015 Field Collection Operations



Image 1 within document in PDF format.

IRS Revenue Collection - 2014



Image 2 within document in PDF format.

Chart 3. Survival rates of establishments, by year started and number of years since starting, 1994-2010



Image 3 within document in PDF format.

Early Intervention Initiatives Federal Tax Deposit Alert System

- FTD Alert X Coded Pilot
 - Tests whether accelerating the timing of alerts increases impact and identifies which taxpayers benefit most from alerts
 - Implementation: April, 2015
- EFTPS Early Alerts
 - Modifies the FTD payment platform to create a near real-time system to identify variances in FTDs that will enable/expand treatment streams
 - Implementation: 2016

Early Intervention Initiatives Benefits

- Expand early intervention program, educate taxpayers and modify taxpayer behavior to enhance compliance
- Improve collection case selection and assignment
- Enable data-driven decisions regarding taxpayer contacts

Beyond Early Intervention for Compliant Employers

- Notice and demand for payment
- Pay in full
- Investigate Ability to Pay/Financial Statements and Trust Fund Penalty Interview
- In-Business Installment agreements
- Offers in Compromise
- Currently Not Collectible
- Levy of bank accounts, receivables

- Seizure of property
- Disqualified Employment Tax Levy (DETL)
- Trust Fund Recovery Penalty ([IRC 6672](#))
- Suits for Injunctive Relief
- Criminal Referrals

Outsourcing Payroll

Many employers outsource some or all of their payroll and related tax duties to third-party payroll service providers.

- Third-party payer services include:
 - Withholding Social Security, Medicare and income tax from wages
 - Timely submitting federal tax deposits
 - Preparation and timely filing of payroll tax returns
 - Preparation and timely filing of information returns

Risks of Using Third-Party Payers

In rare instances use of a third-party payer can expose a business to risk of:

- Payroll tax fraud
- Late or unfiled tax returns
- Underreported tax liabilities
- Late or undeposited tax payments
- Limited notification if a problem arises

Initiatives to Mitigate Risks of Using Third-Party Payers

- Dual Notice Initiative - Risks associated with address changes
- Electronic Federal Tax Payment System enhancements
 - Inquiry PINs
 - Email confirmation of scheduled payments
- Creation of Form 14157, Return Preparer Complaint
 - Used by taxpayers to report suspected fraudulent activity and abusive tax schemes

- Federal Tax Deposit Alerts
 - Early intervention initiatives
- Trust Fund Recovery Penalty - [IRC § 6672](#)

Current Status of Collection

- Currently 13,371,000 accounts are in the Collection Division inventory
- 106.4% increase since 2005



Image 4 within document in PDF format.

The FAST Act

- Signed into law on 12/4/15
- Requires IRS to utilize Private Debt Collectors
- Passports suspended or denied if owe “seriously delinquent taxes” (defined as more than \$50,000)
- Exceptions: I/A, OIC, CDP or Inn. Spouse
- No exception for CNC

Offers-in-Compromise

- New Form 656
- \$186 application fee
- New Allowable Expenses - (numbers fell!)
- Ability to full pay (IRM 5.8.5.2) vs. Advocate's Collectability Curve

Low-Income Certification (*Individuals and Sole Proprietors Only*)

Do you qualify for Low-Income Certification? You qualify if your gross monthly household income is less than or equal to the amount shown in the chart below based on your family size and where you live, If you qualify, you are not required to submit any payments during the consideration of your offer. Businesses other than sole proprietors or disregarded single member LLCs taxed as a sole proprietor do not qualify for the low income waiver.

Check this box if your household's gross monthly income is equal to or less than the monthly income shown in the table below.

Size of family unit	48 contiguous states and D.C.	Hawaii	Alaska
1	\$2,475	\$2,848	\$3,092

2	\$3,338	\$3,840	\$4,171
3	\$4,200	\$4,831	\$5,250
4	\$5,063	\$5,823	\$6,329
5	\$5,925	\$6,815	\$7,408
6	\$6,788	\$7,806	\$8,438
7	\$7,652	\$8,798	\$9,567
8	\$8,519	\$9,794	\$10,650
For each additional person, add	\$867	\$996	\$1,083

Orders of Restitution

- Recent development
- IRS will assess as a civil tax liability
- IRS has no authority to compromise

Questions?



Image 5 within document in PDF format.

[FNa]. Disclaimer: This material was produced in connection with ABA Section of Taxation continuing legal education programs. It represents the statements and views of the author and does not necessarily represent the official policies or positions of the American Bar Association or the ABA Section of Taxation. The American Bar Association and the Section of Taxation do not accept responsibility for the accuracy of the information in this paper, nor for any interpretation or application by the reader of the information contained in this paper. This paper is not intended to be, nor should it be construed as constituting, the opinion of, or legal or tax advice with regard to specific case or transaction by the author, the Tax Section or the American Bar Association.

2016 ABATAX-CLE 0506013

2016 ABATAX-CLE 0506013

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.