

	<p data-bbox="289 457 659 659">THE IRS WORKSHOP: DAY 1</p> <p data-bbox="289 709 529 743">Roger Nemeth, EA</p> <p data-bbox="813 323 1386 548">TRN TAX REP NETWORK</p> <p data-bbox="748 604 1414 890">T M TAX MENTOR</p>
--	--

1

<p data-bbox="240 1182 334 1230">CPE</p>	<input data-bbox="1268 1150 1360 1234" type="checkbox"/>
	<ul data-bbox="850 1304 1386 1528" style="list-style-type: none">▶ There will be 16 polls▶ Please answer the polls▶ You must be in front of a screen and not on the phone!
<p data-bbox="245 1787 638 1854">TRN T TAX REP NETWORK TAX MENTOR</p>	

2

Schedule

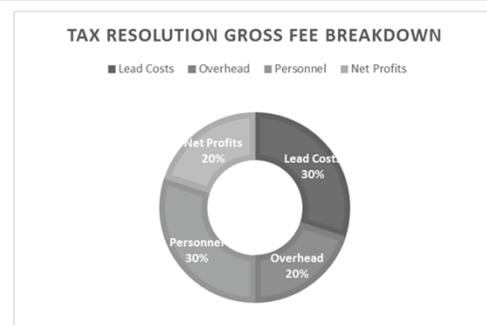
- ▶ Stick to our schedule
- ▶ 15-minute break at about the half-way point
- ▶ Go to the restroom and refill your coffee (or drink of choice)



3

Fundamentals of Collection Work

- ▶ Remember your time has value.
- ▶ Resolution is a function of:
 - Lead Cost.
 - Man Hours.
 - Amount Charged.
- ▶ The more time you spend talking with your client the less money you make.
- ▶ Cases worked efficiently make more money.
- ▶ Your processes determine your profitability.



4

Best Practices Recommendations

- ▶ There are many different paths to onboarding a tax resolution client. In this presentation we will provide you our best practices as opposed to all the options.
- ▶ The main point here is we recommend you request transcripts through Practitioner Priority Service (PPS) on day one during or just after the client interview.



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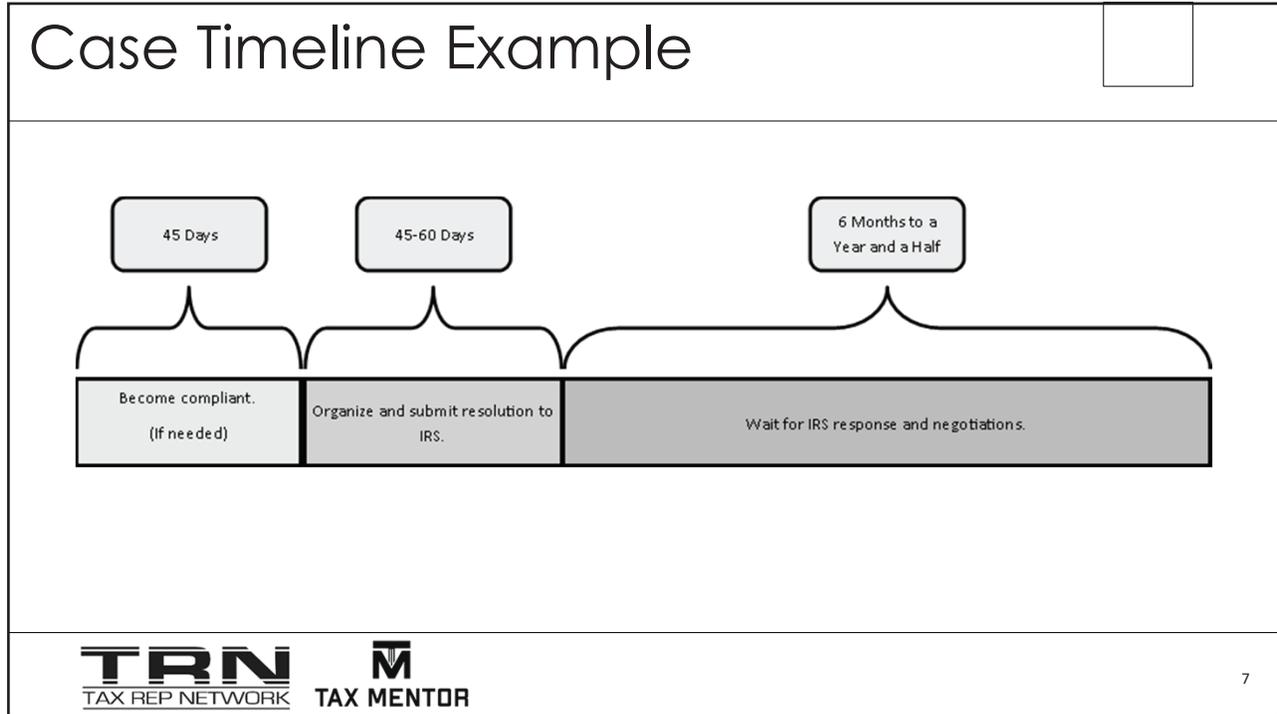
Inventory Management

- ▶ A successful tax resolution practice is all about managing client inventory. All of the large tax resolution companies focus on inventory management to create profits.
- ▶ Here are some guidelines for you to use as a starting point.
 - If the client is in compliance the resolution should be submitted within 45 days of engagement.
 - The IRS response and negotiation for a non-OIC or non-RO case should take an additional 45-60 days (OIC and/or RO case is between 6 months and a year and a half).
 - If the taxpayer is not compliant add another 45 days.
 - These timelines are problematic if collections only defers action for 30 days. Remember charge accordingly if these times need to be decreased.
 - Some firms have a 30-day goal for compliance and initial submission on all cases. The less the better but be realistic. Remember your client is the variable in most cases.

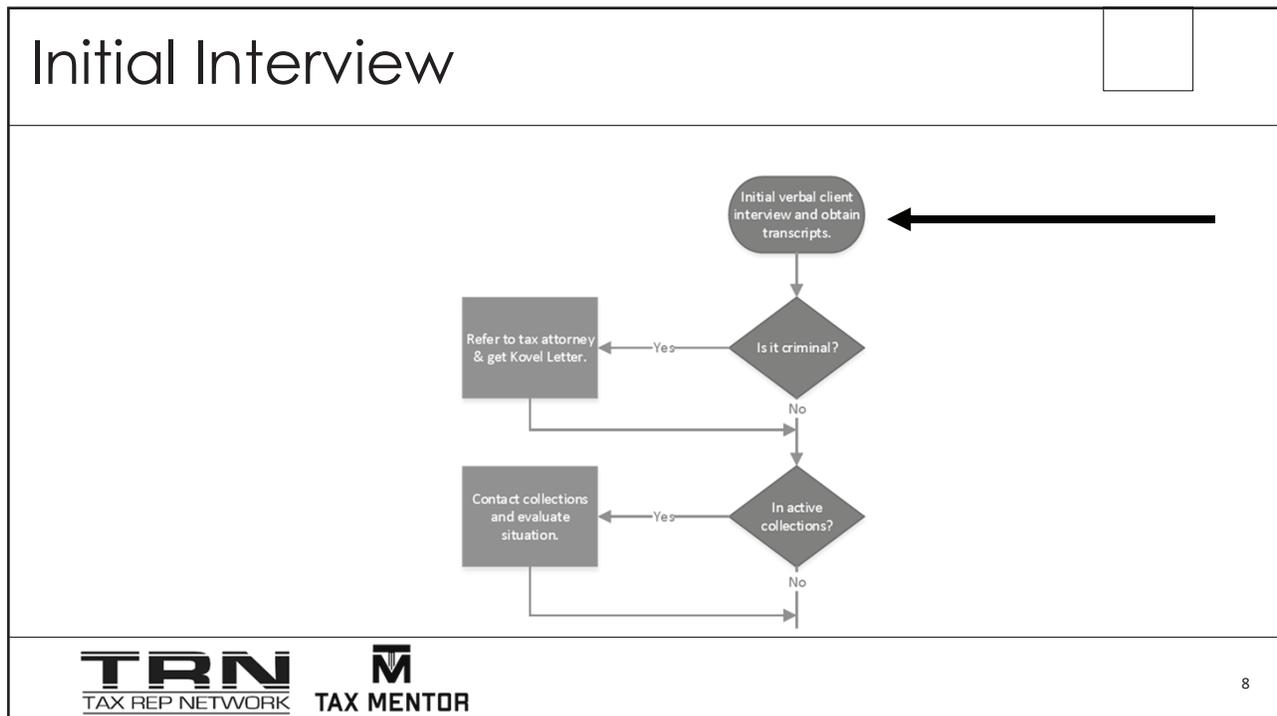


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Client Initial Meeting

- ▶ Get 2848 **AND** 8821 (and state POA's if necessary) signed to cover all years at issue at a minimum (recommended back to 1998 to check for FTA opportunities).
- ▶ Make sure to ask about businesses and request Civil Penalties and Separate Assessments for individuals to avoid surprises later. Don't forget EIN's for Schedule C Payroll.
- ▶ Ask about state issues and get appropriate POA for each state/municipality.
- ▶ If you are confident you will be representing the client ask them to start gathering their financial records.
- ▶ Do not submit the 2848 until the client engages you for resolution services.
- ▶ If the client does not engage your resolution services have a letter to provide them confirming you are not representing them and you are not under POA. Mark the 2848 as withdrawn and keep in your records.
- ▶ Your goal should be to have them commit within 24 hours of initial meeting or preferably the same day. Keep the sense of urgency high to assist with closing.
- ▶ You should be trying to close the sale this entire process!!!!



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To Charge or Not to Charge?

- ▶ Some tax pros charge for the initial interview and some charge for the transcript analysis.
- ▶ Many Tax Pros do this for free, but it does have value. We recommend charging between \$100 and \$500 (or more if the case warrants it) and letting them deduct that amount from their resolution fees (Just make sure to build this in your fee structure).
- ▶ Charging for the initial IRS Account Analysis can be a good indicator if the client is just shopping or fishing for free information or if they are committed.



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Initial Interview Expedite Flags

- ▶ If the client indicates any of the following circumstances exist the rest of the process may need to be accelerated. Example: If the client is being levied the tax pro does not want to wait for a 2848 to be accepted by the CAF unit to get transcripts.
 - Are there any indicators case is criminal?
 - Client actively being levied or garnished.
 - Client has received certified letters from the IRS.
 - Client is in audit or exam.



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8821 & 2848 Recommendations

- ▶ Initial meeting call PPS and fax the signed 8821 and request the needed transcripts. (IRM limits the request to 10 per taxpayer per call so may need to call multiple times).
- ▶ If the client engages for tax resolution services then use the digital upload portal to submit the 2848.
- ▶ If your staff will be calling to follow up with the case you will also want to submit an 8821 under your business CAF number.
 - This entitles employees from a business to call and get information as long as they have an e-Services SOR account in their name. Although not in the IRM PPS does occasionally require that the employee has their own CAF number as well.



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2848 and 8821 Submission Tip

You should get the following from the client during the initial meeting so they do not need to come back in to the office or deal with signing, scanning and sending.

- ▶ Get a signed 8821 with your CAF number.
 - Alternatively you can get a signed 8821 with your business caf number so you or any employee can call PPS about the account.
 - Some firms get two 8821s signed. One with primary tax rep CAF and the other with the business CAF.
- ▶ Get a signed 2848.

A business can get a CAF number by filing an 8821 for a taxpayer as a designee. A business CAF does not allow the use of the IRS Transcript Delivery System (TDS) since the business does not have an e-Services Account. Employees can call PPS and ask questions on the account and request transcripts if they have an e-Services Account in their name.



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e-Signatures on 8821/2848

- ▶ The IRS now allows e-Signatures on forms 2848 and 8821, however this presenter does not recommend using this option at this time.
- ▶ The reason the e-Signatures are not recommended by me at this time are:
 - When using e-Signature on these forms they can only be uploaded to the CAF unit for normal processing. PPS and ACS will not accept them.
 - The remote ID validation is more stringent for e-Signatures than for wet signatures.
 - They do not process any faster than the wet signatures.
 - IRS announced a complete online option will be available in July 2021 (Tentative) that looks like a better option.



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2848/8821 Upload Portal

- ▶ Launched January 2021
- ▶ Allows upload of 8821s & 2848s with digital/e-Signatures and wet signatures.
- ▶ MUST have IRS eservices account in order to access

https://www.irs.gov/tax-professionals/submit-forms-2848-and-8821-online

An official website of the United States Government

IRS

Help | News | English | Charities & Nonprofits

File | Pay | Refunds | Credits & Deductions | Forms & Instructions

Home / Tax Tips / Submit Forms 2848 and 8821 Online

Submit Forms 2848 and 8821 Online

You can safely upload and submit your client's third-party authorization forms:

- [Form 2848, Power of Attorney and Declaration of Representative](#) PDF
- [Form 8821, Tax Information Authorization](#) PDF

Already logged in to e-Service? To submit forms, [log out](#) and return here to log in again.

[Log In to Submit](#)

Before You Get Started

- If you are an e-Service user (e.g. TDS, TIN Matching) and logged in, you will need to [log out of e-Service](#) log in.
- Ensure you have authenticated the identity of your client.
- Make sure the form is signed by all parties, either electronically or with an ink signature. Refer to the [E-file Questions](#) below for more information on electronic signatures.
- Have your Secure Access credential ready, along with the device used to receive the security code. If you have a Secure Access account, you can sign up when you click the [Log In to Submit](#) button.

Submit Your Form

From any web browser:

1. Log in with your Secure Access unique username, password, and security code.
2. Answer a few questions about the form that will be submitted. You can only submit one form at a time.
3. Upload a completed version of a signed Form 8821 or Form 2848. Do not submit a form online if you've already faxed or mailed.
4. To submit multiple forms, select "submit another form" and answer the questions about the authorization.

If you are unable to establish a Secure Access account or submit the forms online, you can [submit forms by mail](#).



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Best Submission Practices If Faxing

- ▶ Set the DPI or outbound FAX quality to it's highest setting.
- ▶ Occasionally fax something to yourself to check your fax machine.
- ▶ Best times to fax. Tuesday through Thursday an hour after CAF opens and an hour before they close.
 - Philadelphia (International) hours 8-5 EST
 - Memphis hours 8-5 CST
 - Ogden hours 8-5 MST
- ▶ You can always call Practitioner Hotline and ask for 1 or 2 transcripts and ask them to forward to the CAF unit.
- ▶ Fax only one document at a time.
- ▶ If sending bulk 8821/2848's mail them in an unfolded letter size envelope with a cover letter explaining what you are doing and a business card. This helps verify that you are not a fraudster.



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Faxing 8821 /2848 Strategies

- ▶ Currently it is hard to fathom that the IRS is still relying on 1960's fax technology and human beings manually typing in data to a computer just so Tax Professionals can access their client's data to better serve them.
- ▶ At a meeting I attended (Roger Nemeth) in May 2018 the IRS advised that if the printers connected to e-Fax run out of ink or paper there is no record of the submission. Later in the presentation there is an example received by the IRS that indicates it was received via E-Fax. Not sure if the IRS is using E-Fax, Fax Machines or a combination of both.
- ▶ The IRS indicated at that near the end of 2019 processing times were 21 days "give or take" (Pre-Covid).



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Receive Copies Of Notices

2 Representative(s) must sign and date this form on page 2, Part II.

Name and address

Bob Jones

333 Main St
Anywhere, FL 32312

Check if to be sent copies of notices and communications

CAF No. 9999-99999R

PTIN P99999999

Telephone No. 850-555-1234

Fax No. Optional

Check if new: Address Telephone No. Fax No.

- ▶ As a best practice I recommend practitioners always check the box to receive notices.
 - Representing the client you will want all notices and communications.
 - I recommend only doing this if you submit the 2848. If the 8821 gets forwarded to the CAF unit and the client does not engage your services you do not want their notices.

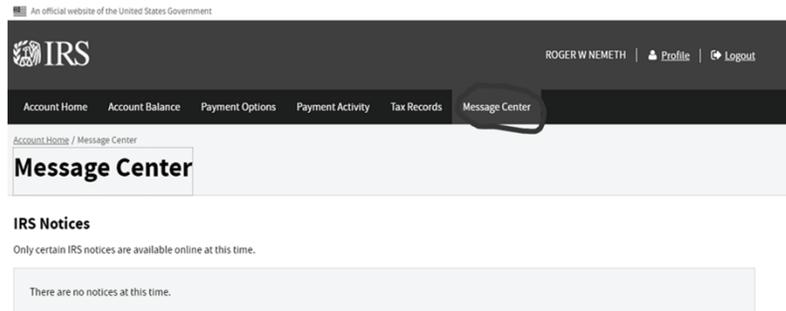


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New Way to Get Previous IRS Notices

- ▶ The IRS has begun uploading some IRS notices with a bulk of notices to be added later this year to the IRS Online Taxpayer Account.
- ▶ Tax pros can access their personal version using their e-Service credentials.
- ▶ <https://www.irs.gov/payments/view-your-tax-account>



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Separate Assessment - Mirrored Accounts

These only occur when the original return is filed Married Filing Joint. The IRS needs to “separate” the liability:

- ▶ Bankruptcy
- ▶ Offer in Compromise
- ▶ Restitution Related
- ▶ Tax Court (may include Examination, Appeals, Automated Underreporter)
- ▶ Innocent Spouse (Form 8857), Request for Innocent Spouse Relief
- ▶ Exam agreed / unagreed cases
- ▶ Taxpayer Assistance Order (TAO)
- ▶ Manually Monitored Installment Agreement
- ▶ Currently Non-Collectable (CNC)

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Managing 2848/8821 On File

- ▶ Tax Resolution professionals should withdraw from all 2848/8821 that do not have a current engagement (unless they are a client and you are monitoring their account).
- ▶ We recommend withdrawing in bulk every 6 months to 12 months depending on volume.
- ▶ Steps:
 - Request an IRS CAF 77 through FOIA (via online FOIA or fax).
 - Draw a line through all CAF authorizations YOU WANT TO RETAIN!!!
 - ▶ Be careful as some people get confused a draw a line through the CAF authorizations they want to keep. If you do this you will need to resubmit all your current CAF Authorizations.
 - Mail it to your CAF unit (Fax is too unreliable and upload portal only allows one taxpayer withdraw per request).

Presentation Note: The IRS has stated that in the new Tax Pro Account scheduled for release later this year will have the ability to manage CAF Authorizations. This would have the ability to withdraw online instantly.



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CAF 77 – List of Authorization

21.3.7.11 (09-11-2015) CAF 77, Representative/Client Listing

- 1) The CAF generates a listing of clients, by representative, with required approval. This listing is called the CAF 77 and is generated by the CAF programmers in the Detroit Computing Center.
- 2) The CAF 77 listing provides a listing of taxpayers, TINs, Form numbers, tax periods, and SDLNs.
- 3) External Requesters may submit a written Freedom of Information Act (FOIA) request to receive a listing of their own clients. Sample language that includes all the required elements for making the request is available on the FOIA website at www.irs.gov under the link CAF Client Listing Request. The completed request may be submitted to....

Presentation Note: CAF 77 can be requested through the new online FOIA Request at www.FOIA.gov



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CAF 77 - Online FOIA Request

IMPORTANT:

FOIA Request must be signed to be valid and FOIA does not yet have e-sign option for online submissions. Uploading a signed copy of the request is the easiest way to resolve the tech gap.

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Withdrawing 2848/8821 Individually

- ▶ Taxpayer writes “REVOKE” across the top of his copy of the Form 2848, signs his name and current date. Mails or Faxes the form to the IRS CAF Unit.
- ▶ Representative writes “WITHDRAW” across the top of his copy of the Form 2848, signs his name and current date. Mails or Faxes the form to the IRS CAF Unit.

Presentation Note: The IRM has been updated so withdraw and revoke are synonymous
21.3.7.10 (06-13-2018) Deletions, Revocations and Withdrawals
4. A third-party or taxpayer may state withdraw or revoke and it will be honored.

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Common Reasons for Rejection

- ▶ Bad fax (Either sending fax or receiving fax).
 - Worst case is they never received it and have no record.
- ▶ Signatures out of date.
- ▶ Unreadable signature.
- ▶ Incomplete form (one of the required elements is missing).
- ▶ Form filled out incorrectly.
- ▶ Faxed from a 1-800 number.
- ▶ Business CAF number is listed instead of individual CAF number.
 - No electronic e-Service Access under business CAF.
 - Business CAF can never be used on a 2848.

Note: Remember it seems like the CAF unit looks for any reason to reject the forms.



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Does It Matter Which Campus I Fax To

No, it does not matter unless the taxpayer is overseas.

IRS IRM 21.3.7.1.3 (09-13-2017) Audience-Processing Sites (CAF Function)

7. The CAF Function that receives the authorization is responsible for processing to the CAF, regardless of the state mapping.

Exception:

All International Form 2848 or Form 8821 received in Ogden or Memphis must be forwarded to the Philadelphia CAF Function via fax within 24 hours unless considered bulk inventory, which will be mailed.



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How To Acquire IRS Transcripts Quickly

- ▶ Get Transcripts. (Taxpayer's only pass validation 25% of the time)
- ▶ Priority Practitioner Hotline.
 - Tip. Use EnQ to reduce hold time to less than 3 minutes.
- ▶ IRS Office (however some require an appointment).
- ▶ I am in a focus group for instant transcript access through e-Services. IRS announced projected launch date of July 2021.



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Practitioner Priority Line/Practitioner Priority Service (PPL/PPS) – BEST PRACTICES

- ▶ Phone Number: (866) 860-4259
 - Option 2 – Individual Accounts
 - Option 3- Business Accounts
 - Allowed 5 taxpayers per Phone Call **keep running list of clients to maximize efficiency
- ▶ Available 7:00am - 7:00pm local time (all time zones in continental Us)
 - Best time to avoid high hold times, early morning and early evening
 - Can fax in 8821 or 2848 while on the phone
- ▶ Request “balance and compliance check” on first call
- ▶ 10 transcripts per taxpayer available on each call and will be uploaded to SOR mailbox.
 - Request Account Transcripts (AT) for balance dues
 - Request Wage & Income Transcripts (IRP) for missing compliance returns and most recent income
 - Request Tax Return Transcripts (TRT) for two most recent years if available



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What Is IRS e-Services?

IRS e-Services is a suite of web-based tools that allow tax professionals and payers to complete certain transactions online with the IRS. The tools include Registration Services, e-file Application (EFIN's), Transcript Delivery and TIN Matching. These services are only available to approved IRS business partners such as EFIN Holders and Circular 230 Tax Professionals.



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Features For the Tax Practitioner

- ▶ Sign up for an **E**lectronic **F**iling **I**dentification **N**umber (EFIN).
- ▶ Close an EFIN or disassociate from an EFIN.
- ▶ Confirm number of E-Filed Returns under an EFIN (IRS recommends you check each EFIN during filing season to check for EFIN spoofing).
- ▶ Transcript Delivery System (The most beneficial feature).



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Passwords Are Not To Be Shared

From the IRS e-Services Login Page:

Do not create or access an account in this system for anyone other than yourself. You may not use another person's information to create or access an account on behalf of and in the name of that person, even if that person provided their information to you to create or access an account for them or even if that person consented to your use of their information to create or access the account.

Unauthorized use of this system is prohibited and subject to criminal and civil penalties, including, but not limited to, penalties applicable to knowingly or intentionally accessing a computer without authorization or exceeding authorized access under 18 U.S.C. 1030.



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Link Two Devices to One e-Services Account

- ▶ Once you link a phone number to your account you can add the IRS2Go App to a second device. You would get texts on one and use the App on the other.
 - This device does not need to be a phone.
 - ▶ Android or Apple Tablets.
 - ▶ Virtual Android Desktops on your desktop.
- ▶ How can I get the security codes sent to an e-mail?
 - When validating (or revalidating) your phone number choose the verify by mail option.
 - Once you receive the code in the mail use it to validate a Google Voice Number (I have not tried other virtual numbers, but it should work). Google Voice text messages can then be set up to forward to one or more E-Mail addresses.



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Check Your EFIN Status To Prevent E-Filing & e-Services Access Shutdown

- ▶ The IRS can shut your EFIN off if they suspect it is being used fraudulently.¹
- ▶ The IRS Recommends checking your EFIN Status weekly during the filing season.²
- ▶ This can get tricky for the tax practitioner.
 - In my experience, from user feedback, if you contact the IRS and report an EFIN has been compromised they work with you to get a new one.
 - If the IRS notifies you (especially if it involves prior tax years) they can suspend the EFIN immediately (even during filing season) and make the you apply for a new EFIN. During tax season it can take 6-8 weeks to get a new EFIN.

1 IRS IRM3.42.10.2.4 (10-01-2018) Misuse of Electronic Filing Identification Number (EFIN) or Electronic Transmitter Identification Number (ETIN)
 2 IRS Pub 4557 Safeguarding Taxpayer Data A Guide For Your Business, Section "Review Internal Controls" page 4



Navigate To EFIN Status

IRS.gov → Tax Pros → Access e-Services → E-file Provider Services → Access E-File Application → Login Process → Select Edit EFIN → EFIN Status

Select EFIN Status

Compare this number with your software's number.

Note: This number rarely matches exactly with your software.

The screenshot shows the IRS e-file provider interface. At the top, there are navigation tabs: e-services, Online Tutorials, Mailbox, Modify PIN, Sign Out, and Contact Us. Below these are tabs for Firm Information, Application Details, Authorized Users, Application Summary, Application Comments, and Application Submission. The main content area shows the EFIN Status page for a user named Sunshine Tax Solutions. It includes a table with the following data:

EFIN	EFIN Status	Effective Date	Updated By
[Redacted]	Active	08/06/2015 2:32 PM	C6XGB

Below this table is a section for Electronic Return Originator (ERO) Activity by EFIN and Return Type. It includes a table with the following data:

EFIN	Return/Form Type	Processing Year	Transmitted YTD	Accepted YTD	Rejected YTD
[Redacted]	1040	2018	15	15	0
[Redacted]	1040	2018	20	20	0
[Redacted]	4085	2018	1	1	0
[Redacted]	1040	2017	20	20	0



Transcript Delivery System

- ▶ The Transcript Delivery System (TDS) allows users to request and download IRS transcripts.
- ▶ In order to access TDS a user must be registered for e-Services and listed as a Principal or Responsible Official on an EFIN with five (5) E-Filed returns in a calendar year.¹
 - These users can grant someone Delegated User access to e-Services.
- ▶ Exception: The IRS allows Circular 230 Professionals EA, CPA, & Attorneys who do not have five (5) E-Filed Returns to access TDS, but they need to apply for an EFIN as a sole Proprietor under their SSN.²
- ▶ A user also needs a Centralized Authorization File (CAF) Number to request transcripts.

¹ IRS.gov <https://www.irs.gov/e-file-providers/features-of-the-irs-e-file-application-using-e-services>

² IRS.gov <https://www.irs.gov/e-file-providers/circular-230-practitioner-e-services-access>



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Delegated Users

- ▶ A delegated user can only download transcripts if they are listed on a 2848/8821 with their own CAF Number.
- ▶ Exception glitch for spouses: My wife is not a tax professional. She is a delegated user under my EFIN and can access any transcripts I have access to or she can get them under her own CAF number.
- ▶ To assign a delegated user just log into your e-Services Account and click on the EFIN application you would like to add them to (They only need to be delegated on one to get access).
 - The IRS does not allow Circular 230 practitioners to assign delegated users under their Sole Proprietor EFIN. (But the system allows them to be added and it works.)



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CAF Number

- ▶ To request a CAF number complete an 8821 or 2848 on someone (taxpayer, spouse, etc.) and fax it to the IRS (The IRS has been bouncing 2848's in the tax practitioner's name recently).
 - The IRS should send you a letter with your CAF Number within 30 days, but often times the letter is not received. The letter is only sent after the first request.
 - Best Practice: Call the Practitioner Line 5-7 days later and advise them you forgot your CAF number (do not tell them you just applied or they will tell you to wait 30 days and call back). IRS.gov states you can call PPS and retrieve a forgotten CAF.
 - ▶ Note: This is the only time in working with e-Services you will call PPS instead of the E-Help Desk.
- ▶ In rare instances a user can have multiple CAF's. This is from the old days (over 10 years ago). The IRS has been trying to consolidate tax practitioners down to just one.
- ▶ CAUTION: A business can also be issued a CAF number but the business cannot get access to TDS, only individuals who work for a business. Be careful not to list your business CAF on the 2848 or 8821 because you will not get e-Services access to the transcripts. Also, make sure you only use the individual CAF when using TDS or all requests will fail.¹

¹ IRS IRM 21.3.7.3.2 (06-20-2014) Providing Lost/Forgotten CAF Numbers



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IRS Transaction Code Resources

- ▶ IRS Transaction Codes Pocket Guide
- ▶ IRS Document 6209 - ADP and IDRS Information
 - Section 8A, Master File Codes - Transaction, MF and IDRS Collection Status, Freeze and IDRS Status 48, Restrictive and Filing Requirements
- ▶ There is a consolidated list that combines all resources at TaxHelpSoftware.com under Resources.



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Why should you pull IRS Transcripts?

“Everyone lies!!!”

Stop trying to figure out what your client’s problem or status is by having them tell you. Gather their basic facts, collect any IRS correspondences and have them sign a 2848 or 8821 so you can access their transcripts.



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IRS Transcript Analysis Best Practice

- ▶ ~~A best practice when analyzing transcripts is to copy and paste them into Excel. Specifically copy the transactions from the Account Transcripts. The benefits are:~~
- ▶ ~~Sort the transactions by date.~~
 - IRS Account transactions are not in chronological order which makes it nearly impossible to analyze the transcript itself.
 - Copy all the transaction on to one sheet or copy the transactions for each transcript onto a separate worksheet.
- ▶ ~~Use Excel to calculate the number of days between transactions for calculating Statute of Limitation Dates.~~
- ▶ ~~Create a dashboard to track specific events by year in relation to each other.~~
- ▶ If you are trying to make a profit in resolution transcript analysis software is a must. It revolutionized the industry when it was created in 2012.



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Types of IRS Transcripts & What Years Should You Access:

- ▶ Account (1998-Present)
- ▶ Return (Request them all. Available for current and prior 3 years)
- ▶ Wage & Income (Request both forms & summary for the past 10 years)
- ▶ Separate Assessment (Same as account transcripts)
- ▶ Civil Penalties (Same as account transcripts)
- ▶ TXMOD (As needed via FOIA or PPS)

Note: Do not use Record of Accounts since they do not update as often as Account Transcripts.



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What Account Transcripts Reveal

- ▶ Compliance (Was return filed or not and what type: Original, SFR, Amended).
- ▶ Exam Status (None, Active, or Closed).
 - Exam Type (Under Reporting or Exam).
- ▶ ASED Date (Assessed Statute Expiration Date).
- ▶ CSED (Collection Statute Expiration Date also known as Statute of Limitations).
- ▶ RSED (Refund Statute Expiration Date)
- ▶ Account Balance.
- ▶ Qualification for Fresh Start Installment Agreement or OIC.
- ▶ Active Collection Status (None, Active, or Closed).
- ▶ Lien Status (None, Active, or Released).
- ▶ Fraud indicators (Accuracy Related Penalties or Penalty for Fraud).
- ▶ First Time Penalty Abatement Eligibility.
- ▶ Notices Issued.
- ▶ Track Estimated Payments.



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EnQ Fast Access to the IRS

► Gyx\$ syv\$W\$ L sph\$Xm i\$vsq \$ syw\$ \$ \$ \$ myxiw



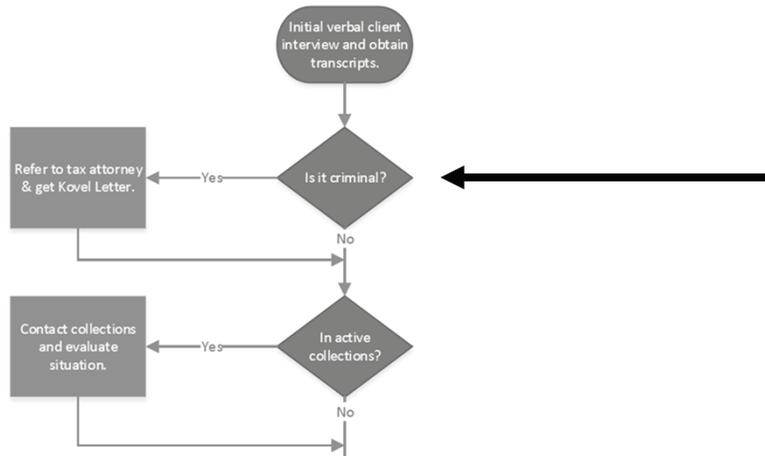
IrU \$w\$ \$ wzexi \$M \$wivzngi \$r \$ieglmrk \$W\$ \$kirw \$ymop2

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Is Case Criminal?



Is Case Criminal?

- ▶ If taxpayer is a serial non-filer and tax debt is over \$100k the client **MAY** want to consult a tax attorney.
- ▶ Has client been contacted by IRS CID?
 - Have people with guns and badges visited?
 - Has anyone from the IRS read the client their Miranda Rights?
 - Do they have a business card from a Special Agent?
- ▶ Is RO acting suspicious and evasive or ignoring calls?
- ▶ If necessary obtain Kovel Letter and proceed at attorney's direction.
- ▶ Remember to document if you advised the client of the possibility of it being criminal. The decision to retain counsel should be theirs. The decision to take them as a client is yours.



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Is Case Criminal? (from transcripts)

- ▶ Unfortunately, I have not found a way to detect criminal investigations from the account transcripts. The best advice is to review the set of circumstance after the initial client interview and transcript analysis.
- ▶ Serial non-filers with debt over \$100k is usually when I would start thinking criminal investigation is a possibility. This does not mean a client who owes \$105k and has not filed in 6 years is being investigated just that they might be. IRS CID investigations have been conducted on cases under \$100k.
- ▶ IRS criminal cases are extremely rare, but tax pros need to be aware of them.



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IRS ACCOUNT STATUS DASHBOARD

Year	Return Filed	Filing Status	Extension Date	Lien Active	Collections Active	Examination Active	Assessed Balance	Accrued Balance	Transcript Date
2021	-	UK							not found
2020	No	HOH					\$0.00	\$0.00	1/15/2021
2019	No	HOH					\$0.00	\$0.00	1/15/2021
2018	No	HOH					\$0.00	\$0.00	1/15/2021
2017	No	HOH					\$0.00	\$0.00	1/15/2021
2016	No	HOH					\$0.00	\$0.00	1/15/2021
2015	Original	HOH					\$0.00	\$0.00	12/28/2020
2014	No	S					\$0.00	\$0.00	1/5/2021
2013	Original	S	10/15/2014				\$0.00	\$0.00	12/28/2020
2012	Original	HOH	10/15/2013				\$0.00	\$0.00	12/28/2020
2011	Amended	HOH		9/21/2012	No		\$31,196.84	\$36,551.84	1/15/2021
2010	Original	HOH		12/23/2011	No		\$65,987.96	\$77,314.90	1/15/2021
2009	Original	HOH	10/15/2010	6/17/2011	No		\$19,450.40	\$22,789.09	1/15/2021
2008	Original	HOH		6/17/2011	No		\$141,730.71	\$166,059.04	1/15/2021
2007	Original	S					\$0.00	\$0.00	12/28/2020
2006	Amended	S					\$0.00	\$0.00	12/28/2020
2005	Amended	S					\$0.00	\$0.00	12/28/2020
Total							\$258,365.91	\$302,714.87	

Serial Non-Filer.

Overall balance greater than \$100k.

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Criminal Indicator on a TXMODA Transcript?

- ▶ The TXMODA transcript can show the presence of criminal investigation. The IRS is supposed to redact the TXMODA criminal indicator if they provide it, but in my experience they redact only if it is in the affirmative.
- ▶ TXMODA's can (sometimes) be obtained by calling the IRS, but sometimes they require a FOIA.
- ▶ I do not have any examples of what the indicator looks like. (since they are redacted).
- ▶ TC 914 on an Account Transcript is actively being worked by CI.
 - This will result in a -Z freeze on the account.
 - The -Z freeze code is usually redacted as well.

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Typical Fraud Referral:

- ▶ TP owes lots of money (\$100k + up to millions)
- ▶ Form 433A/4180 is missing material information
- ▶ TP lives lavish lifestyle (using corp to pay PLE)
- ▶ RO is lied to or never given substantial documents
- ▶ RO then has to summons bank docs and then review the records
- ▶ RO gets credit card information / car loan (compares to tax return or lifestyle)
- ▶ TP hasn't learned his lesson about compliance



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Ways To Prevent CI Referral

- ▶ Do your homework. Don't trust taxpayer to tell you everything or know everything; Look at pattern (years, amounts, changing companies, previous lies); If unpaid payroll taxes, where did money go to? Who got benefit? Pyramiding?
- ▶ Get POA signed so agent can talk to you. Don't let taxpayer be interviewed.
- ▶ Pay the tax bill. Paying doesn't absolve the situation, but it lessens the motivation (compliance is complete, possible probation, government resources wasted, etc.)
- ▶ If you have records, turn it over. If not, don't create it, unless a professional is hired. No document is better than inaccurate document.
- ▶ Be responsive to every request (don't play games)

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Ways To Prevent CI Referral

- ▶ If you have a good excuse, add it to the IRS file (CI won't take something that is a case killer) ex. medical/rehab/depression/etc. Better standing when making argument later on.
- ▶ Lessen the jury appeal with compliance. File the amended return.
- ▶ Don't offer excuses unless you know all facts. Otherwise agent will believe you don't know what is going on and you lose credibility.
- ▶ Keep stuff off social media (Facebook, Instagram)
- ▶ QuickBooks (can be requested, only give years requested)
- ▶ If 4180 interview, complete the form, but don't let taxpayer be interviewed
- ▶ Comply, comply, comply

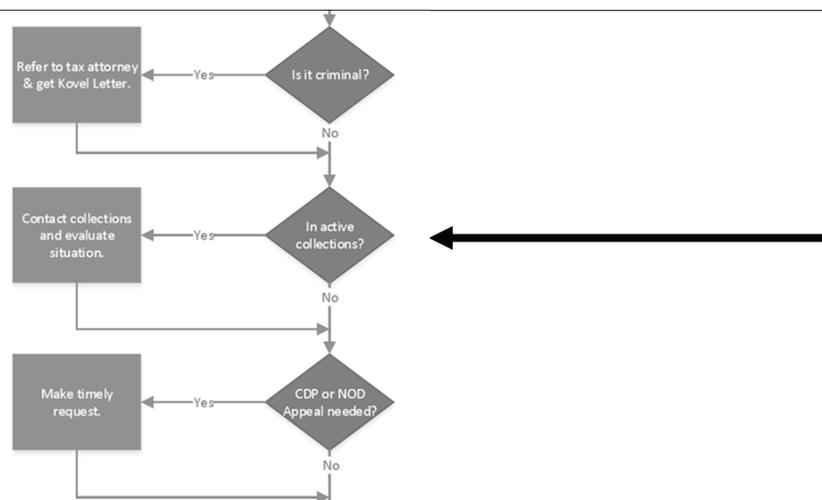
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Signs Of A Criminal Referral

- ▶ 914 control codes (stops civil in tracks) - Tweel vs US
- ▶ RO/RA stops talking to you or TP or starts asking “why?”
- ▶ Audit expands into other years
- ▶ Extensive document requests

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Is Collections Active?



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Is Collections Active?

- ▶ Has the client already been levied?
- ▶ Are the client's wages being garnished?
- ▶ Has the client received (or ignored) any certified letters?

Nothing worse than having a new client get levied before you are able to review their transcripts.



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Is Client In Active Collections? (from transcripts)

- ▶ Check the transcripts for years with a balance.
- ▶ For each year with a balance due look for TC Code "971 Collection due process Notice of Intent to Levy – issued"
- ▶ Look through the transactions to see if the client is in a resolution:
 - CNC, Pending IA, established IA, Pending or accepted OIC, and/or Bankruptcy (or Tax Court).
 - Double check to make sure the resolution has not been reversed or denied.



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Contact Collections or Wait?

If your client is in active collections the IRS can begin forced collections at any time. The two schools of thoughts are as follows:

- ▶ Contact Collections immediately in order to assess what they need to enter a resolution.
 - This may accelerate some deadlines and force the case to move along faster.
 - We recommend this if there is an increased risk of levy.
- ▶ Wait until your analysis is complete so when you contact Collections you are prepared to negotiate based on your client's circumstances.
 - Problem with waiting is that the IRS could issue a Levy or Garnishment. Nothing like having a new client that gets a levy just after engaging your services.
 - We recommend this for most cases



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When to Contact Collections Immediately

- ▶ Prior levies.
- ▶ Taxpayer had recent contact with IRS.
- ▶ Recent certified letters or recent Notice of Intent To Levy on transcript.
- ▶ Deadline from the IRS:
 - Deadline to file.
 - Financial statement.
 - Submit an IA.
- ▶ Recent passport revocation.



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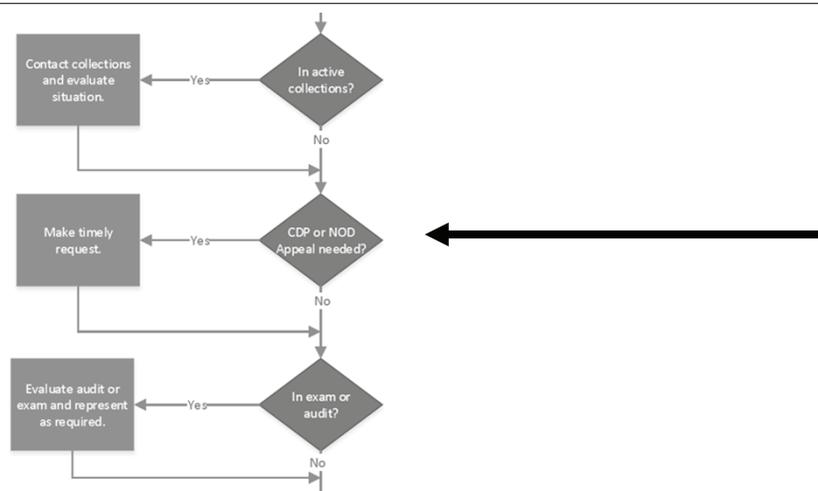
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Collection Holds

- ▶ Agreement to Full Pay (Short Term Payment Plan)
 - Up to 120 days if still in Notice Status
 - Up to 60 days if in Collections
 - Off the table once total days allowed are exhausted
- ▶ Deadlines/Holds for Document Submission
 - Usually, 30 days for Returns
 - 5-14 days for additional Documents
 - At discretion of Rep

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Appeal Deadlines?



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Is CDP Needed?

The taxpayer is entitled to a CDP hearing before Appeals if the IRS sends the taxpayer a notice concerning a proposed levy, a notice of levy, or a Notice of Federal Tax Lien, if such notice states the taxpayer have the right to request a CDP hearing.

CDP Procedure

- ▶ You have 30 days to request a CDP hearing
- ▶ Complete Form 12153, Request for a Collection Due Process or Equivalent Hearing
- ▶ It is important to identify all the reasons for any disagreement you have.
- ▶ The completed Form 12153 should be sent to the same address that is shown on your CDP Notice
- ▶ If your request is timely made within 30 days, you will be entitled to an Appeals hearing and to seek judicial review of that hearing with the Tax Court
- ▶ If your request is timely, IRS levy action is generally suspended against you for the tax periods you appealed.
- ▶ If your request is not timely, you are still entitled to request an Equivalent Hearing with Appeals within the 1-year period described in the Form 12153. However, if you still disagree with the Appeals decision in the Equivalent Hearing you have no right to judicial review by the Tax Court



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Equivalent Hearing In Lieu of CDP

- ▶ A CDP Tolls the CSED date and two of the bankruptcy discharge rule dates.
- ▶ Generally, an Equivalent Hearing can be requested up to year after the notice (A CDP is within 30 days).
- ▶ An Equivalent Hearing does not toll the CSED, but is very similar process.
- ▶ Be aware the Equivalent Hearing does not have Tax Court Appeal Rights.
- ▶ If you desire to file an Equivalent Hearing make sure you file more than 30 days after the notice date and always give yourself a little extra time.



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Is NOD Appeal Needed?

- ▶ Notice of Deficiency (NOD)
- ▶ Check the transcript for TC 494 Final notice before tax is determined for you by IRS (Statutory notice of deficiency). If it has not already been reversed by TC 495 Tax determination closed there is a 90-day window to file an appeal.
- ▶ Not all NOD's show up on account transcripts.



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Levy Release?

If your client is in active collections and the IRS has already levied your client you can apply to have the levy released. The IRS is required to release the levy if it determines that:

- ▶ You paid the amount you owe,
- ▶ The period for collection ended prior to the levy being issued,
- ▶ Releasing the levy will help you pay your taxes,
- ▶ You enter into an Installment Agreement and the terms of the agreement don't allow for the levy to continue,
- ▶ The levy creates an economic hardship, meaning the IRS has determined the levy prevents you from meeting basic, reasonable living expenses, or
- ▶ The value of the property is more than the amount owed and releasing the levy will not hinder our ability to collect the amount owed.



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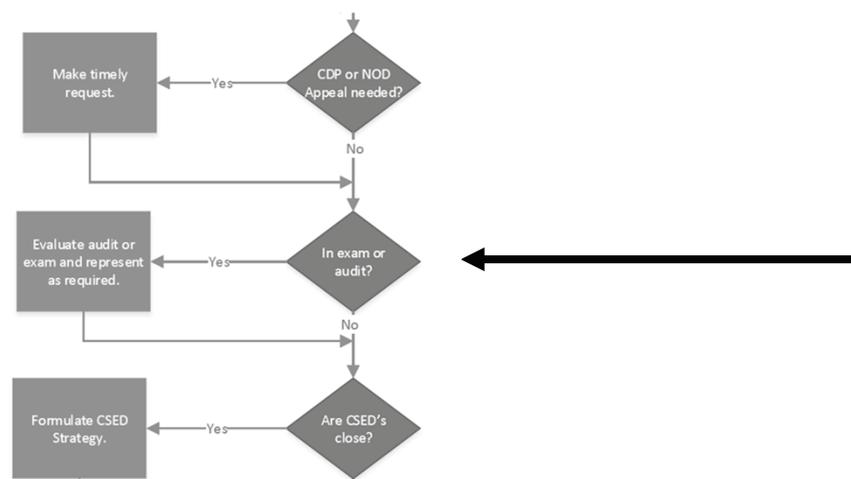
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Liens?

- ▶ You should also check for liens during the CDP Check.
- ▶ Check for liens TC Code:
 - 582 Lien placed on assets due to balance owed
- ▶ If a lien is present check to see if it has been released or removed:
 - 583 Lien released
 - 583 Lien removed
- ▶ Consult with the client to see if the lien needs to be removed or released and evaluate the options.

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Active Exam or Audit?



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Is Client Under Exam or Audit?

- ▶ Although the client should know this you may be surprised (or not) at the client's response.
- ▶ Remember if the client ignores all communications the audit usually is completed by the IRS and not in the client's favor.
- ▶ This can be difficult to determine in the initial interview, but it is worth asking. The transcripts will have more specific information.

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Is Client in Exam or Audit? (from transcripts)

- ▶ On any year where the ASED has not expired check the transcripts for the Audit/Exam Transaction Codes:
 - 420/424 Examination of tax return
 - 922 Review of unreported income
- ▶ If you see the audit has started check for the following codes to see if they have ended:
 - 421 Closed examination of tax return
 - 290/300 Additional tax assessed

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Is Client in Exam or Audit? (Cont'd)

- ▶ If your analysis shows a 290/300 Additional tax assessed try to determine if an audit reconsideration would benefit the client.
- ▶ Start by interviewing the client about what happened at the audit. Call PPL to see if you can get any information on the audit. As a last resort a FOIA might be an option to find out what happened.
- ▶ If needed file an amended return and put "Audit Reconsideration" at the top.

Audit Work Is Different Than Collections

- ▶ ~~It is difficult to make money representing clients in audit. It is hard not lose money representing clients in audit.~~ It is hard not to work for free representing clients in audit.
- ▶ I recommend a separate engagement letter for the audit.
- ▶ Audits while the client is in active collections can be a challenge. Charge accordingly.

IRS ACCOUNT STATUS DASHBOARD

Year	Return Filed	Filing Status	Extension Date	Lien Active	Collections Active	Examination Active	Assessed Balance	Assessed Balance	Transcript Date
2021	-	UK							not found
2020	No	MFJ					\$0.00	\$0.00	11/25/2020
2019	Original	MFJ			No		\$9,847.24	\$10,081.15	11/25/2020
2018	Original	MFJ	10/15/2019		No	11/9/2020#	\$30,754.97	\$34,046.39	11/25/2020
2017	Original	MFJ	10/15/2018		No	2/10/2020#	\$1,990.20	\$2,427.66	11/25/2020
2016	Original	MFJ	10/15/2018	2/15/2019	9/30/2020		\$10,574.76	\$13,969.69	11/25/2020
2015	Original	MFJ	10/15/2016	2/15/2019	9/30/2020		\$39,816.56	\$46,665.32	11/25/2020
2014	Original	MFJ	10/15/2015	9/9/2016	9/30/2020		\$57,399.58	\$65,618.90	11/25/2020
2013	Original	MFJ	10/15/2014	1/9/2015	9/30/2020	Closed#	\$71,127.54	\$80,873.17	11/25/2020
2012	Original	MFJ	10/15/2013	1/2/2015	9/30/2020		\$18,991.76	\$21,359.03	11/25/2020
2011	Original	MFJ	10/15/2013	8/2/2013	9/30/2020		\$41,323.90	\$47,871.28	11/25/2020
2010	Original	MFJ	10/15/2011	10/16/2015	9/30/2020		\$29,728.37	\$33,999.20	11/25/2020
2009	Amended	MFJ					\$0.00	\$0.00	11/25/2020
2008	Original	MFJ					\$0.00	\$0.00	11/25/2020
2007	Original	MFJ					\$0.00	\$0.00	11/25/2020
Total							\$311,554.88	\$359,146.69	

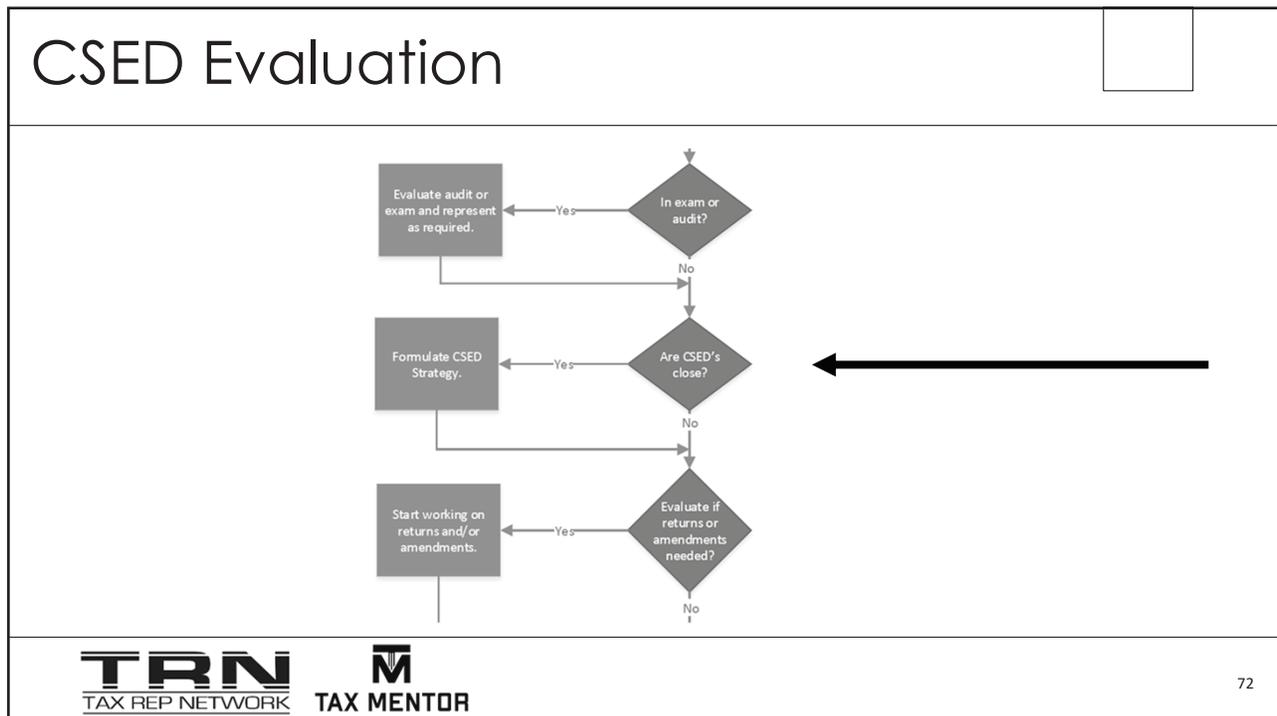
Active Collections.

Open Exams. Automated Underreporter (AUR)

Taxpayer is NOT compliant.

Active Liens.

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Collection Statute Expiration Date (CSED)

- ▶ The CSED defines how long the IRS has to collect tax for a specific assessment.
- ▶ The CSED is calculated as 10 years after the assessment date.
- ▶ Each assessment carries its own CSED.
- ▶ The CSED can be extended by tolling events.

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CSED Tolling Events

There are several events that suspend or extend the CSED date.¹ These are often referred to as “Tolling Events” and the most common are:

- ▶ Offer In Compromise (OIC) - For the duration of the pending offer plus 30 days if rejected.
- ▶ Tax Court - For the duration of the case.
- ▶ Bankruptcy - For the duration plus 6 months.
- ▶ Collection Due Process (CDP) Hearing - Tolls for the duration plus up to 90 days.
- ▶ Pending Installment Agreement - For the duration plus 30 days if rejected.
- ▶ Terminated Installment Agreement - Tolls for 30 days after termination.
- ▶ Taxpayer Out Of The Country For Longer Than 6 Months - For the duration plus an additional 6 months.
- ▶ Military Deferment - Duration of combat zone deployment plus an additional 270 days.
- ▶ Innocent Spouse – The lesser of the following: The waiver is filed possibly TC 971 Innocent spouse balance cleared, 90 days after the TC 971 Innocent spouse claim received, or If a Tax Court petition is filed, when the Tax Court decision becomes final, plus, in each instance, 60 days.

¹ IRS IRM 5.1.19.2.2 (05-23-2013) Integrated Data Retrieval System (IDRS) Transaction Codes (TC) That Suspend Or Extend A CSED

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The Big Disagreement Do SFR's Have A CSED?

Yes they do.

I have many more examples.

- ▶ SFR 9/9/2002
 - Original never filed.
- ▶ Tax, penalty & interest assessed on 5/19/2003.
- ▶ No tolling events.
- ▶ CSED expired on 5/20/2013 and balance written off.

Year	Description	Date	Amount
2000			
460	Extension of time to file tax return ext. Date 08-15-2001	4/15/2001	\$0.00
460	Extension of time to file tax return ext. Date 10-15-2001	4/15/2001	\$0.00
670	Payment	4/15/2001	(\$1,000.00)
896	W-2 or 1099 withholding	4/15/2001	(\$319.00)
140	Inquiry for non-filing of tax return	5/22/2002	\$0.00
570	Additional account action pending	9/9/2002	\$0.00
150	Substitute tax return prepared by IRS	9/9/2002	\$0.00
404	Final notice before tax is determined by IRS	12/4/2002	\$0.00
495	Resolved tax determination	4/29/2003	\$0.00
599	Tax return secured	4/30/2003	\$0.00
290	Additional tax assessed	5/19/2003	\$9,414.00
196	Interest charged for late payment	5/19/2003	\$1,311.92
196	Penalty for filing tax return after the due date	5/19/2003	\$1,821.37
276	Penalty for late payment of tax	5/19/2003	\$1,052.35
170	Penalty for not pre-paying tax	5/19/2003	\$427.46
971	Tax period blocked from automated levy program	2/9/2004	\$0.00
971	Collection due process Notice of Intent to Levy -- issued	5/24/2004	\$0.00
971	Collection due process Notice of Intent to Levy -- return receipt signed	6/7/2004	\$0.00
582	Lien placed on assets due to balance owed	4/15/2005	\$0.00
530	Balance due account currently not collectable	7/8/2005	\$0.00
276	Penalty for late payment of tax	11/13/2006	\$971.40
971	Notice issued CP 071A	11/10/2008	\$0.00
971	Notice issued CP 071A	11/15/2010	\$0.00
971	Notice issued CP 071A	11/14/2011	\$0.00
960	Appointed representative	4/16/2012	\$0.00
530	Balance due account currently not collectable	7/23/2012	\$0.00
971	Account match for federal levy payment program	8/27/2012	\$0.00
971	Final notice before levy on social security benefits	8/27/2012	\$0.00
971	Notice issued CP 0091	8/27/2012	\$0.00
670	Payment	11/21/2012	(\$280.95)
671	Account match for federal levy payment program	10/2/2012	\$0.00
608	Write-off of balance due	5/20/2013	(\$13,398.55)
583	Removed lien	6/2/2013	\$0.00



CSED Section

IRS IRM 25.6.1.9.4.5 (10-05-2016)

Substitute for Return (SFR)

1. Under authority of IRC Section 6020(b), the Service has authority to prepare and process a tax return when a person fails to file a required return or files a false or fraudulent return. If the Service processes a tax return prepared under the authority of IRC Section 6020(b), assessing the tax accordingly, **the assessment date will start the period for the statute of limitations for collection per IRC Section 6502(a)(1), but does not start the period of limitations for assessment per IRC Section 6501(b)(3).**



40% Of IRS CSED's With Tolling Are Inaccurate

According to the TIGTA Report: Recalculations of the Collection Statute Expiration Date Were Not Always Accurate from September 16, 2013 Reference Number: 2013-30-098

“Test results of a statistical sample of 75 tax modules from a population of 1,085 with manually recalculated CSEDs showed that 29 (39 percent) of the 75 tax modules contained errors. Twenty-one had inaccurate CSEDs and eight were missing the required documentation to support the CSEDs. Based on the results of our case review from a population of 1,085 tax modules that were manually recalculated between July 1, 2011, and June 30, 2012, we estimate that CSEDs for 260 tax modules were extended longer than they should have been, 43 tax modules were not extended as long as they should have been, and 116 tax modules were unverifiable.

Most errors were made by employees. These employees generally request CSED recalculations through the Integrated Collection System, and the request is systemically sent to the requesting employee's manager for approval. Managerial approval is required when CSEDs are extended or updated for any reason. However, the current internal controls requiring managerial approval are not effectively ensuring the accuracy of manually recalculated CSEDs.

An IRS computer system recalculates most CSEDs systemically. Random samples from eight separate activities that trigger systemic CSED recalculations showed that all CSEDs were accurate for six of the eight activities. However, the CSED recalculations were not always accurate for modules involving bankruptcies or estates.

TIGTA also identified nine taxpayers who received an annual balance due reminder notice after the CSED expired.”



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Form 911 TAO Exception

IRS IRM 5.1.19.3.13 (04-26-2018)

Taxpayer Assistance Order (TAO)

1. IRC 7811(d) and the accompanying regulations provide that if a taxpayer submits a Form 911 Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order), the statute of limitations on collection and/or assessment will be suspended beginning on the “Taxpayer Advocate Received Date and ending on the TAS decision date. See IRM 13.1.14.3.1, Period(s) Suspended.
2. Due to systemic programming limitations, the Commissioner decided in November 2003, that Taxpayer Advocate Service (TAS) does not have to input the appropriate IDRS codes to reflect the suspension of the statute of limitations under IRC 7811(d). The program limitations are still in effect. Therefore, IDRS codes are not input to show the correct suspension periods for IRC 7811(d) at this time. See IRM 13.1.14.1, Introduction to Suspension of the Statutes of Limitation Under IRC§ 7811(d).



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What The Form 911 Exception Is

IRS IRM 5.1.19.3.13.2 states “Taxpayer Advocate Service (TAS) **does not have to input** the appropriate IDRS codes to reflect the suspension of the statute of limitations under IRC 7811(d).”

This means the IRS does not have to enter the Form 911 tolling event, but they still can. If the IRS enters the tolling event for the 911 and you would like to appeal the best avenue is with the Tax Payer Advocate. It is rare that this tolling event is applied so your position should be claim under the Tax Payer Bill of Rights #10 The Right To A Fair And Just Tax System. Why was my client singled out?



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Equivalency Hearing As A Tool

Although the IRS tolls for a CDP Hearing if the 30 days after notice expires the taxpayer still has a year (or a year and 5 days if it is a lien notice) to file for an equivalency hearing.

The equivalency hearing does not toll. For the most part the IRS does treat the equivalency hearing like the CDP and does not take collection action, but they are not prevented.



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Currently Not Collectible (CNC) Does Not Toll The CSED

Having your client placed in currently not collectible is a great strategy for reaching the CSED without active collections taking place. The IRS is not barred from collections so the CSED does not toll, but they do not enforce collections during this period.

The IRS usually requires a taxpayer to re confirm their CNC status every two years. May not be the best solution if the CSED is greater than two years.



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Pending IA's That Are Not Accepted Or Rejected Do Not Toll

Pending IA's are a challenge. In my experience if the Pending IA is not closed it does not toll. Often times someone at the IRS places the Pending IA on the account, but nobody ever follows up. It is never accepted or rejected and it just hangs. I have seen CSED's expire with open Pending IA's on them.



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What Makes A Pending Installment Agreement A Tolling Event

IRS IRM 5.14.1.3 (07-16-2018) Identifying Pending, Approved and Rejected Installment Agreement Proposals on IDRS

4. Taxpayers need to provide specific information for installment agreement requests to be processed. Also, if the information in (a) through (d) below is provided, but it is determined that the agreement request was made to delay collection action, accounts should *not* be identified as being in pending installment agreement status. (See IRM 5.14.3.2.) To identify accounts as "pending" installment agreements, taxpayers must:

- a) Provide information sufficient to identify the taxpayer: generally, the taxpayer’s name and taxpayer identification number (TIN). If a taxpayer furnishes a name, but no TIN, and the taxpayer’s identity can be determined, then pending status should be identified;
- b) Identify the tax liability to be covered by the agreement;**
- c) Propose a monthly or other periodic payment of a specific amount;**
- d) Be in compliance with filing requirements. (See IRM 5.14.1.4.1.)**



Examples From IRS IRM 5.14.1.3.10 (07-16-2018)

SITUATIONS THAT DO RESULT IN IDENTIFICATION OF PENDING INSTALLMENT AGREEMENTS

Example:

(1) A taxpayer calls the IRS, provides her name, social security number (SSN), identifies the outstanding liability (or balances due), is in compliance with all filing requirements, fits streamlined installment agreement criteria and states she wants to pay \$500 per month. If the \$500 proposed payment meets the minimum payment required under the Streamlined Criteria and the installment agreement can be immediately closed, do not request a TC 971 AC 043. If the payment does not meet the minimum required payment, the taxpayer can't make the minimum payment required for Streamlined criteria, and additional information will need to be secured, input the TC 971 AC 043.

Example:

(2) A revenue officer (RO) and taxpayer discuss the taxpayer’s financial statement (which includes the taxpayer’s name and SSN) on the phone. The taxpayer is in compliance with all filing requirements. The balances due are specifically identified. The RO says the taxpayer needs to pay \$1500 per month. The taxpayer says he will think about it. The revenue officer mails the taxpayer a 433D. TP changes the amount on 433D and mails it back.

Note:

Though in pending status, the agreement (and payment amount) must be approved by the manager, unless it is a Streamlined, Guaranteed or In-Business Trust Fund *Express* agreement. (See IRM 5.14.5.)

Example:

(3) A taxpayer wants to make payments. RO completes Collection Information Statement (CIS) including the taxpayer’s name and SSN and tells the taxpayer \$500 per month is appropriate. The taxpayer is in compliance with filing requirements. The taxpayer verbally agrees to the payment amount.



Examples From IRS IRM 5.14.1.3.10 (07-16-2018)	
SITUATIONS THAT <u>DO NOT</u> RESULT IN IDENTIFICATION OF PENDING INSTALLMENT AGREEMENTS	
Example: (1) A revenue officer evaluates a taxpayer's CIS. The taxpayer's name, social security number and balances due are all known and/or identified. The revenue officer informs the taxpayer that a \$1500 per month installment agreement is appropriate. There is no response from the taxpayer.	
Example: (2) A revenue officer mails a 433D (with the taxpayer's name, SSN and balances due listed) to a taxpayer. The 433D provides a payment amount based on an analysis of the taxpayer's CIS. No response is received by phone, FAX, e-mail or other means of communication from the taxpayer.	
Example: (3) A taxpayer who knows he owes taxes tells his employer to send \$500 per month of his paycheck to the IRS. The taxpayer does not communicate with the IRS. The taxpayer's employer sends \$500 per month referencing the taxpayer's SSN. (Note: if \$500 per month is being received, contact should be attempted prior to taking collection action.)	
Example: (4) A revenue officer begins a trust fund recovery penalty (TFRP) investigation. Meanwhile, an officer of the corporation states he wants an installment agreement, identifies the trust fund portion of the corporation's liability (as the balance due account to be paid) and provides a specific payment amount (to be paid from his own funds and applied to the corporate liability - trust fund only.) However, no liability has been recommended for assessment and/or the officer has not signed Form 2751, indicating responsibility for the trust fund portion of the liability (i.e., there is no balance due account for payment application.) Therefore, the potentially responsible officer is informed that there is no pending installment agreement and payments made are considered voluntary. Information about designating these payments to the trust fund portion of a liability is provided in IRM 5.7.4.4. (Also see IRM 5.14.7.4.1 and IRM 5.14.7.5.)	
Example: (5) A taxpayer wants to make payments on an installment agreement. The RO completes a CIS including the taxpayers name and SSN. RO tells the taxpayer \$500 per month appears to be an appropriate amount for an installment agreement, but the taxpayer is not in compliance with filing his Forms 1040 for the last two years. The taxpayer states that his accountant is away, and that the returns, which are complicated, will take some time to prepare. The revenue officer requests that the taxpayer submit original, signed returns within 60 days, along with a \$500 payment (based on the financial statement received). In addition, the revenue officer requests that a payment of \$500 be received within 30 days. These requests are made in accordance with the procedures provided in IRM 5.14.3.1 and IRM 5.1.10.	
	
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IRS Personnel Abusing Pending IA's	
<p>I participated in a case recently where a revenue officer denied a Pending IA that was on the transcript for 4 years. This extended a CSED that was about to expire by four years. The Notice of Intent to Levy was delivered 2 weeks after the Pending IA input on the transcript. The client was also levied.</p> <p>The tax pro filed with Taxpayer Advocate and advised the client wanted their levied funds back or remove the pending IA Tolling Event and let the remainder of the assessed amount to drop off. They opted for writing off the balance due to the CSED.</p> <p>In the time since I first gave this webinar many years ago I have personally observed over a dozen instances of this type of abuse.</p>	
	
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Reasonable Time For A Pending IA

If an account has an unreversed pending IA open for more than 14 weeks, if reversing transaction was input prior to January 21, 2016; 26 weeks if the reversing transaction was input on or after January 21, 2016 and there is no evidence of an IA request.

5.19.1.6.4.7 (09-26-2018)

Pending IA Criteria

Note:

A TC 972 AC 043 will systemically reverse TC 971 AC 043 in 26 cycles if an account does not go to ST 60, unless the module is in ST 26. This systemic reversal may take place within 26 cycles if a TC 520 (except cc 76-77), TC 530, TC 480, or TC 780 posts to the module.

ST 26 on TXMODA indicates an RO has been assigned to the case.



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Basic CSED Calculation Example

- ▶ The taxpayer has a 150 - Tax Return Filed on 4/15/2013 for \$5,000.
- ▶ Taxpayer filed bankruptcy 1/1/2014 which ended on 6/1/14. From the Account Transcript:
 - 520-Bankruptcy or other legal action filed - 1/1/2014
 - 521-Removed bankruptcy or other legal action - 6/1/14
- ▶ The CSED without any tolling would be 4/15/2013 plus 10 years and 1 day = 4/16/2023
- ▶ Because the bankruptcy occurs after the assessment and before the 10 year date it tolls the CSED for the duration (152 days) Plus 6 months (182 days) = 3/13/2024. The bankruptcy tolls for a total of 332 days (152+182).



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Are CSED's close?

- ▶ Calculate the CSED's and call PPL to get them.
 - Tax pros should always verify the IRS CSED's since the IRS IG reports 40% of CSED's with tolling events are incorrect.
- ▶ If any of the CSED's are close they should be evaluated as part of your resolution strategy.
- ▶ I recommend at this point the bankruptcy discharge dates are evaluated. These are not available through PPL and need to be calculated.

Best Practice Tip: I recommend advising clients on estimated bankruptcy dates and advise them to seek counsel from a bankruptcy attorney if they choose. I would note this in their file that a conversation was held discussing the bankruptcy option. Make sure they understand you are not giving legal advice (unless you are an attorney or USTCP)



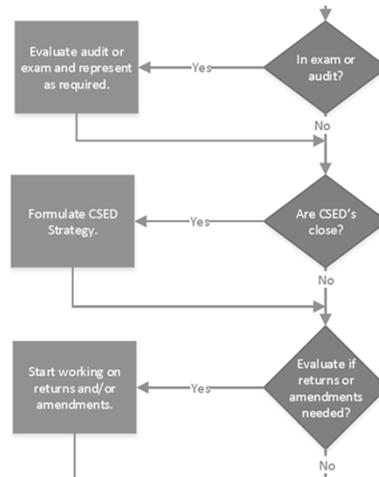
CSED CALCULATIONS AND IA PAYMENTS

YEAR	CODE	ASSESSMENT	DATE	ORIGINAL ASSESSED AMOUNT	REMAINING BALANCE	ESTIMATED TOTAL TOLLING DAYS	ESTIMATED CSED	LESSER OF MONTHS UNTIL CSED OR 12	IA AMOUNT
	360	Fees and other expenses for collection	5/9/2011	\$10.00	\$0.00	89	4/26/18		\$0.00
	276	Penalty for late payment of tax	7/25/2011	\$66.75	\$0.00		4/26/18		\$0.00
	276	Penalty for late payment of tax	8/1/2011	\$402.22	\$0.00		4/26/18		\$0.00
	196	Interest charged for late payment	8/1/2011	\$778.64	\$0.00		4/26/18		\$0.00
	196	Interest charged for late payment	8/13/2012	\$31.33	\$0.00		4/26/18		\$0.00
		2004 Total IA Payments							\$0.00
2005	150	Tax return filed	10/9/2006	\$4,608.00	\$0.00	254	6/21/17		\$0.00
	276	Penalty for late payment of tax	10/9/2006	\$93.15	\$0.00		6/21/17		\$0.00
	170	Penalty for not pre-paying tax	10/9/2006	\$126.00	\$0.00	254	6/21/17		\$0.00
		Penalty for filing tax return after the due date	10/9/2006	\$698.62	\$0.00	254	6/21/17		\$0.00
	196	Interest charged for late payment	10/9/2006	\$142.22	\$0.00		6/21/17		\$0.00
	276	Penalty for late payment of tax	5/14/2012	\$672.96	\$0.00		6/21/17		\$0.00
	196	Interest charged for late payment	5/14/2012	\$1,246.74	\$0.00		6/21/17		\$0.00
		2005 Total IA Payments							\$0.00
2006	150	Tax return filed	1/5/2009	\$6,549.00	\$0.00	145	5/31/19		\$0.00
	276	Penalty for late payment of tax	1/5/2009	\$683.44	\$0.00		5/31/19		\$0.00
	176	Penalty for not pre-paying tax	1/5/2009	\$163.27	\$0.00	145	5/31/19		\$0.00
		Penalty for filing tax return after the due date	1/5/2009	\$1,464.52	\$1,231.69	145	5/31/19	13	\$94.75
	196	Interest charged for late payment	1/5/2009	\$930.58	\$930.58		5/31/19	13	\$71.58
		2006 Total IA Payments							\$186.33
2007	150	Tax return filed	7/6/2009	\$5,196.00	\$5,196.00	145	11/29/19	19	\$23.47
	276	Penalty for late payment of tax	7/6/2009	\$389.70	\$389.70		11/29/19	19	\$20.51
	170	Penalty for not pre-paying tax	7/6/2009	\$236.00	\$236.00	145	11/29/19	19	\$12.42
		Penalty for filing tax return after the due date	7/6/2009	\$1,169.10	\$1,169.10	145	11/29/19	19	\$61.53
	196	Interest charged for late payment	7/6/2009	\$380.59	\$380.59		11/29/19	19	\$20.03
		2007 Total IA Payments							\$387.96
2008	150	Tax return filed	12/6/2010	\$5,402.00	\$4,802.00	121	4/7/21	35	\$137.20
	276	Penalty for late payment of tax	12/6/2010	\$480.20	\$480.20		4/7/21	35	\$13.72
	170	Penalty for not pre-paying tax	12/6/2010	\$154.00	\$154.00	121	4/7/21	35	\$4.40

Estimated CSED's



Evaluate for Needed Returns



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Evaluate If Returns or Amendments are Needed?

- ▶ The IRS usually defines filing compliance as the past six tax years. If an original return was never filed technically they can go back forever. A Substitute for Return does make a year considered compliant.
- ▶ Check to see if the IRS filed any Substitute For Returns (SFR) on any of the past 6 years or any year with a balance due.
 - Review the SFR year's Wage & Income Transcripts and interview the client to see if filing an original return will help.
 - Make sure to add "SFR Reconsideration" at the top of the return when filing.

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Returns Needed? Cont'd

- ▶ If no returns have been filed for one of the past six tax years start gathering data from the client and Wage & Income Transcripts.
- ▶ If original returns have been filed review the return transcripts for the past four tax years to see if they were prepared correctly and if there is an opportunity for an amendment.
- ▶ If there is no tax due and the RSED has expired for a year then there is no need to do an amendment unless you want to document a correction.

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Compliance

- ▶ For collections the IRS requires filing compliance for the past 6 tax years, current plus prior 5.¹
- ▶ A tax year is considered compliant if either an original return is filed or a Substitute For Return (SFR) is filed.
- ▶ Check the transcript for the following transcript codes:
 - 150-Tax Return Filed (Indicates an Original was filed).
 - 150-Substitute tax return prepared by IRS (Indicates an SFR was started).

This is frequently interpreted by the IRS that after January 1st it is the current year and prior 5 years. The current year is considered compliant if not filed before the due date or if a timely filed extension is submitted. There are exceptions, this is an admirative policy not IRM/IRC.

RO's can also interpret it to be prior 6 years and it switches on the primary filing date.

Example. Up until April 15 of this year (if it was normal) taxpayer would need to have filed 2014 through 2019. After April 15 it would 2015 through 2020.

¹ IRS IRM 5.1.11.2.3.1.1 (01-15-2010) Documentation of Compliance

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Substitute For Return (SFR)

- ▶ Usually an original return can be filed after an SFR to reduce tax liability.
- ▶ An original return can also be filed after an SFR to start the ASER date.
- ▶ It is very difficult to determine if an original return was filed and accepted after an SFR was filed. PPS has trouble figuring it out.
- ▶ After an SFR is started the Return Transcript will not be generated even if an original return is later accepted. The IRS modifies the SFR based on the entries on the original return.
- ▶ The following are **STRONG** indicators an original return has been accepted after SFR filing on the Account Transcript:
 - Look for transaction “Prior tax abated”.
 - Filing status other than “Single” or “Married Filing Separately”.
 - Exemptions other than “1”.
 - Look at AGI minus Taxable Income. SFR is only standard deduction and 1 exemption.

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Start Tax Returns Immediately!!!

- ▶ This is a rookie mistake. The IRS will not enter into most resolutions unless the taxpayer is compliant.
- ▶ Currently Not Collectible is the exception. The taxpayer is not required to be in compliance, but they can ask.
 - According to Taxpayer Advocate: “Before the IRS will place your account in CNC status, it may ask you to file any past due tax returns.”

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Review Last Four Years of Returns For Refund Opportunity

National Tax Chains have educated consumers on this for years. Tax practitioners can review the last four years of tax returns in just a few minutes. Look for the anomalies and out of place items.

This can also be done manually just by pulling the last four Return Transcripts and comparing them side by side.



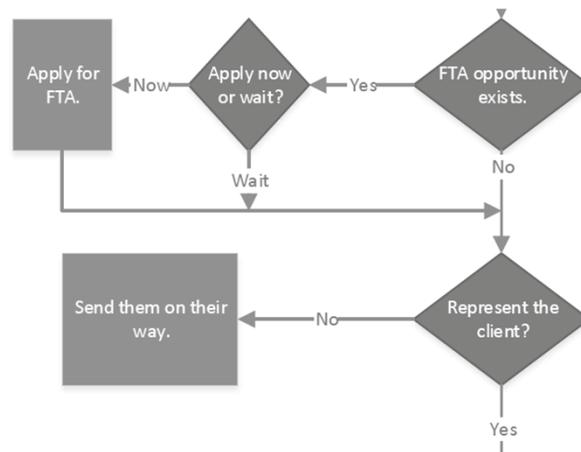
Finding Return Anomalies

2013 Schedule E is the only year with a profit.

INCOME SUMMARY				
INCOME	2012	2013	2014	2015
	Original	Original	Original	Original
TAX RETURN FILED:				
WAGES, SALARIES, TIPS, ETC:	\$80,570	\$88,627	\$97,490	\$107,239
TAXABLE INTEREST INCOME: SCH B:	\$12	\$13	\$15	\$16
TAX-EXEMPT INTEREST: SCH B:	\$0	\$0	\$0	\$0
ORDINARY DIVIDEND INCOME: SCH B:	\$0	\$0	\$0	\$0
QUALIFIED DIVIDENDS:	\$0	\$0	\$0	\$0
REFUNDS OF STATE/LOCAL TAXES:	\$0	\$0	\$0	\$0
ALIMONY RECEIVED:	\$0	\$0	\$0	\$0
BUSINESS INCOME OR LOSS (Schedule C):	\$45,695	\$50,285	\$55,291	\$60,820
CAPITAL GAIN OR LOSSES (Schedule D):	(\$3,000)	\$11,500	(\$4,200)	(\$4,620)
OTHER GAINS OR LOSSES (Form 4797):	\$0	\$0	\$0	\$0
TOTAL IRA DISTRIBUTIONS:	\$0	\$0	\$0	\$0
TAXABLE IRA DISTRIBUTIONS:	\$0	\$0	\$0	\$0
TOTAL PENSIONS AND ANNUITIES:	\$0	\$0	\$0	\$0
TAXABLE PENSION/ANNUITY AMOUNT:	\$0	\$0	\$0	\$0
RENT/ROYALTY/PARTNERSHIP/ESTATE (SCH E):	(\$13,362)	\$51,236	(\$14,562)	(\$16,018)
RENT/ROYALTY INCOME/LOSS:	(\$13,362)	\$51,236	(\$14,562)	(\$16,018)
ESTATE/TRUST INCOME/LOSS:	\$0	\$0	\$0	\$0
PARTNERSHIP/S-CORP INCOME/LOSS:	\$0	\$0	\$0	\$0
FARM INCOME OR LOSS (Schedule F):	\$0	\$0	\$0	\$0
UNEMPLOYMENT COMPENSATION:	\$0	\$0	\$0	\$0
TOTAL SOCIAL SECURITY BENEFITS:	\$0	\$0	\$0	\$0
TAXABLE SOCIAL SECURITY BENEFITS:	\$0	\$0	\$0	\$0
OTHER INCOME:	\$0	\$0	\$12,365	\$2,145
SCHEDULE EIC SE INCOME:	\$0	\$0	\$0	\$0
SCHEDULE EIC EARNED INCOME:	\$0	\$0	\$0	\$0
SCH EIC DISQUALIFIED INC:	\$0	\$0	\$0	\$0
TOTAL INCOME:	\$109,915	\$120,907	\$132,997	\$146,297



Evaluate for Penalty Abatement



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Check for First Time Penalty Abatement?

- ▶ For each year with a Failure to File, Failure to Pay, or Failure to Deposit Penalty check to see if any penalties have been assessed in the prior 3 tax years.
- ▶ Also, check the prior 3 tax years to see if there are any penalty abatements.
- ▶ If there are no penalties or penalty abatements in the prior 3-years then that year may qualify for FTA.
- ▶ To get an FTA there needs to be an outstanding balance or the RSED for the FTA year must not be expired.
- ▶ FTA will only be approved if the taxpayer is considered compliant and in an installment agreement if tax is owed.

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PENALTY AND INTEREST DASHBOARD

Year	Return Filed	FTA	PA	Penalties Failure to File	Penalties Failure to Pay	Accuracy Related	Accrued Penalty	Total Penalties*	Accrued Interest	Assessed Interest	Total Interest
2018	Original						\$0.00	\$0.00	\$0.00		\$0.00
2017	Original						\$0.00	\$0.00	\$0.00		\$0.00
2016	Original	Y		\$1,458.62	\$855.33		\$256.18	\$2,570.13	\$235.61		\$235.61
2015	Original*		N	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00		\$0.00
2014	Amended						\$0.00	\$0.00	\$0.00		\$0.00
2013	Original						\$353.70	\$353.70	\$127.86	\$53.18	\$181.04
2012	SFR		N	\$399.40	\$648.64		\$718.92	\$1,766.96	\$218.82	\$348.73	\$567.55
2011	SFR					\$8,362.00	\$584.65	\$8,946.65	\$5,693.96	\$132.89	\$5,726.85
2010	Original*						\$1,659.74	\$1,659.74	\$1,844.42	\$1,197.54	\$3,041.96
2009	Original		N		\$1,431.24		\$0.00	\$1,431.24	\$0.00	\$1,514.46	\$1,514.46
2008	Original						\$0.00	\$0.00	\$0.00	\$154.73	\$154.73
2007	Original		N		\$0.89		\$0.00	\$0.89	\$0.00		\$0.00
2006	Original						\$0.00	\$0.00	\$0.00		\$0.00
2005	Original		N	\$12,839.74	\$3,622.18		\$0.00	\$16,461.92	\$564.25		\$564.25
2004	Original		Y	\$0.00	\$0.00		\$0.00	\$0.00	\$0.00	\$121.48	\$121.48
2003	SFR					\$983.40	\$0.00	\$983.40	\$0.00	\$331.82	\$331.82
2002	Original						\$0.00	\$0.00	\$0.00		\$0.00
2001	Original						\$0.00	\$0.00	\$0.00		\$0.00
2000	Original	n/a					\$0.00	\$0.00	\$0.00		\$0.00
1999	Original	n/a					\$0.00	\$0.00	\$0.00		\$0.00
1998	Original	n/a					\$0.00	\$0.00	\$0.00		\$0.00
1997	Original	n/a					\$0.00	\$0.00	\$0.00		\$0.00
1996	Original	n/a		\$156,197.12	\$28,689.15		\$0.00	\$184,886.27	\$0.00		\$0.00
1995	Original	n/a					\$0.00	\$0.00	\$0.00		\$0.00
1994	Original	n/a					\$0.00	\$0.00	\$0.00		\$0.00
1993	Original	n/a					\$0.00	\$428.23	\$0.00		\$0.00
1992	Original	n/a					\$0.00	\$0.00	\$0.00		\$0.00
1991	Original	n/a		\$29,367.87	\$11,895.85		\$0.00	\$41,263.52	\$0.00		\$0.00
1990	Original	n/a					\$0.00	\$0.00	\$0.00		\$0.00
Totals				\$200,262.75	\$47,569.31	\$9,325.40	\$3,573.19	\$260,730.65	\$8,584.92	\$3,854.83	\$12,439.75

FTA calculations.

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Wait to File FTA?

- ▶ If a penalty is still accruing the tax pro may want to wait in order to file for the FTA.
- ▶ FTA is only applied to “Assessed Penalties” not the accruals. The Tax Pro can request that collections move the accruals into assessments. Sometimes they do sometimes they don’t.
- ▶ Recently I have been advised by a several tax pros that months after an approved FTA where the penalties were still accruing that they called back once the penalties were maxed out and the IRS abated them based on the original FTA. I do not recommend this as a strategy since it is not in the IRM and application of this exception may be subjective at the IRS.

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Reasonable Cause Abatement

IRS IRM 20.1.1.3.2 (11-21-2017)

Reasonable Cause

3.a. For those penalties where reasonable cause can be considered, any reason which establishes that the taxpayer exercised ordinary business care and prudence, but nevertheless was unable to comply with a prescribed duty within the prescribed time, will be considered.



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Reasonable Cause Examples¹

- ▶ Fire, casualty, natural disaster or other disturbances.
- ▶ Inability to obtain records.
- ▶ Death, serious illness, incapacitation or unavoidable absence of the taxpayer or a member of the taxpayer's immediate family.
- ▶ Mistake Was Made.
- ▶ Erroneous Advice or Reliance.
- ▶ Ignorance of the Law.
- ▶ Forgetfulness.
- ▶ Other reason which establishes that you used all ordinary business care and prudence to meet your Federal tax obligations but were nevertheless unable to do so

¹ IRS IRM 20.1.1.3.2.2 (02-22-2008) Ordinary Business Care and Prudence



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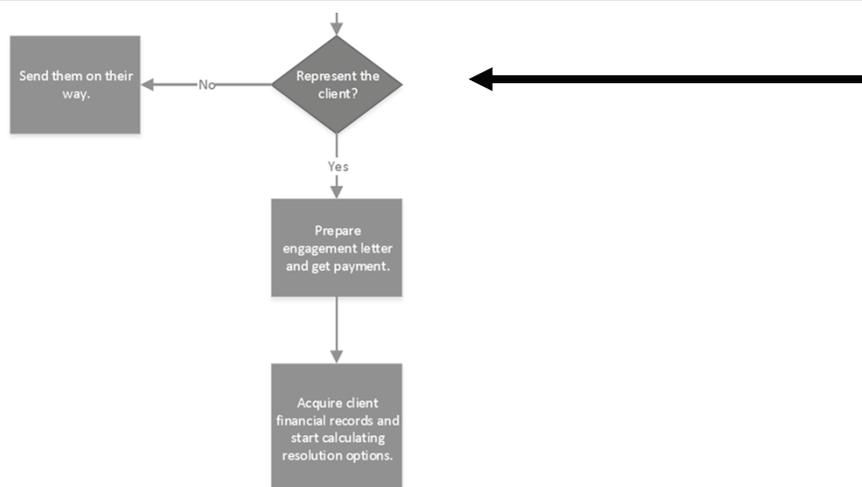
Reasonable Cause Crap Shoot

Reasonable Cause Penalty Abatement is a challenge. It is a subjective determination. Plan on appealing if denied, charge accordingly and make sure the client has reasonable expectations.

In my experience I have seen what I thought were slam dunk medical cases get denied. Just make the most compelling argument you can and plan your appeal. Charge for your time not based on the result.

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Represent Client?



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Represent The Client?

- ▶ Once the analysis of the tax situation is complete determine if you want to represent them.
- ▶ If the case is beyond your abilities refer them to a qualified practitioner and sign up for more THS Seminars and Webinars.
- ▶ It is possible that the client is not a good fit for your business. They may have misrepresented facts or something else to give you pause. I have never regretted not taking a case, but I have often regretted taking one.
- ▶ Check out the red flags on the next slide.



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Representation Red Flags?

- ▶ Client lied during the initial interview.
- ▶ The client has defaulted on one or more resolutions.
 - This is a big problem. What looks like a simple full pay installment agreement can evolve into a collections nightmare.
- ▶ Multiple 2848/8821's have been filed and withdrawn for the client.
 - This may indicate they are shopping tax pros for a variety of reasons.



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Confirm Client Is Making Installment Agreement Payments

Review the account transcript for any transaction codes indicating payments have been made. Payments usually take 7-10 days to appear on the transcript once the IRS has processed the payment.



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Confirm Estimated Tax Payments

A negative number in the current calendar year transcript assessed balance indicates an estimated payment or a deferred refund from the previous tax year.



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Account Assigned to a Private Collection Agency

CODE	EXPLANATION OF TRANSACTION	CYCLE DATE	AMOUNT
150	Tax return filed	20152005 06-03-2015	\$14,519.00
n/a	30221-505-60925-5		
806	W-2 or 1099 withholding	04-15-2015	-811,704.00
460	Extension of time to file tax return ext. Date 10-15-2015	04-13-2015	\$0.00
960	Appointed representative	04-22-2015	\$0.00
706	Credit transferred in from 1040 201112	03-03-2014	-65.00
276	Penalty for late payment of tax	20152005 06-03-2015	\$31.10
196	Interest charged for late payment	20152005 06-03-2015	\$13.83
971	Notice issued CP 0014	06-03-2015	\$0.00
971	Tax period blocked from automated levy program	11-02-2015	\$0.00
530	Balance due account currently not collectable	12-07-2016	\$0.00
971	Notice issued CP 0014	04-13-2015	\$0.00
971	Collection referred to a private debt collection agency	07-10-2017	\$0.00
971	Notice issued CP 0040	07-10-2017	\$0.00

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IRS Loophole

- ▶ If a case goes to private collections submit a 2848 for the client and notify the private collection agency in writing you are representing the client and want it transferred back to IRS Collections.
- ▶ In my experience the IRS is not actively working the cases that are returned to the IRS from private collection agencies.

From IRS FAQ:

Q. Can a private collection agency take legal action against me if I do not pay my tax bill?

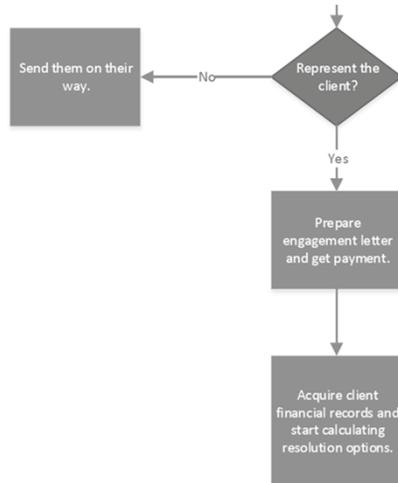
A. Private collection agencies cannot take any type of enforcement action against you to collect your debt. However, the IRS does have the legal authority to file a Notice of Federal Tax Lien or issue a levy to collect an overdue account.

Q. What if I don't want to work with a private collection agency to settle my debt?

A. If you do not wish to work with your assigned private collection agency to settle your overdue tax account, you must submit this request in writing to the PCA.

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Engagement & Pricing



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Prepare Engagement and Get Payment

- ▶ This is the most important step unless you are working Pro Bono.
- ▶ Set reasonable expectations of the resolution outcome.
- ▶ Make sure your engagement has a clause to charge more if the case goes sideways due to uncooperative IRS employees or non communicative clients.
- ▶ Make sure your engagement has a clause to end the case due to an uncooperative client or client who misrepresents themselves or the facts.

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List All Services Separately

- ▶ Listing out each engagement ensures everyone is clear on what is included and ensures that you do not do extra work without compensation.
- ▶ Types of Services:
 - Tax Preparation
 - Resolution
 - ▶ Full Pay IA
 - ▶ Partial Pay IA
 - ▶ Offer in Compromise
 - Audit
 - Appeal
 - Innocent Spouse
 - Lien Work



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Use Several Engagements Instead of One

- ▶ Let's the taxpayer work and pay at a rate they are comfortable with, can be too much financially and emotionally to face everything at once.
- ▶ Keep the arrangement flexible by adding on services as needed and allows the approach to be step by step. Also protects your fees by avoiding an all-inclusive approach.
- ▶ Example:
 - Step 1 - Research
 - Step 2 – Prepare Compliance Returns
 - Step 3 - Resolution
 - Step 4 - Appeals



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Drafting Engagement Letters

- ▶ Circular 230 §10.33(a)(1) it is best practice to communicate clearly with the client regarding the terms of engagement.
- ▶ Don't use legalese, use "plain language" as much as possible.
- ▶ Do not make guarantees as to outcome in the engagement letter, i.e. promise to reduce the balance due.
- ▶ Consider hiring local counsel to work with you on drafting, can also advise on any state or local laws that you should be aware of.
- ▶ If you use templates from another source, tailor them to your practice.

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Escape Clause

- ▶ Need to set limits on acceptable behavior by the taxpayer and have a way to dissociate yourself from representation, don't get yourself dragged down.
 - Working with Obstructive Taxpayers can cause OPR issues for practitioners.
- ▶ Considerations:
 - Remaining Compliant with Current Tax Requirements
 - Truthful & Honest in Communications
 - Good Faith Effort to Comply with IRS Request
- ▶ TIP: Have clause stating your right to fees in the event of misconduct.

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Limits of Representation for EAs & CPAs

- ▶ 26 USC §7525 extends common law protections of confidentiality between federally authorized tax practitioners and clients with respect to tax advice, in non-criminal tax matters both administrative and before a court. An exception is carved out by statute in regard to communications regarding tax shelters. This privilege is extended only to communication that would fall under privilege if communicated with an attorney; it is not a blanket privilege of all communications between the tax practitioner and the client.
- ▶ In order for common law privilege to be asserted the client must, in general, do the following:
 - The client sought out the advice while a client or with the intention of becoming a client
 - The person the communication was made to is a federally authorized practitioner
 - The communication was for the purpose of securing tax advice
- ▶ Common exceptions to the privilege include:
 - The communication was made in the presence of other individuals, or was disclosed to others by the client ***exceptions for accountants working with an attorney under a Kovel Letter
 - The communication was made for the purposes of committing a crime
 - The client has waived the privilege

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Circular 230 § 10.27(a) Fees

- ▶ In general. A practitioner may not charge an ***unconscionable fee*** in connection with any matter before the Internal Revenue Service

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Fee Structures

- ▶ Flat Fees
- ▶ Hourly Rates
- ▶ Retainer
- ▶ Contingency Fees **see Circular 230 §10.27(b) and *Ridgely v. Lew* (55 F. Supp. 3d 89)
- ▶ Does not need to be consistent among the clients BUT they must be clearly outlined to the client under §10.33(a)(1). Also see §10.30(b) if you use pricing in advertisements.



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Factors in Whether a Fee is Unconscionable

- | | |
|--|--|
| <ul style="list-style-type: none"> (1) whether the practitioner engaged in fraud or overreaching in negotiating or setting the fee; (2) whether the practitioner has failed to disclose material facts; (3) the amount of the fee in proportion to the value of the services performed; (4) the relative sophistication of the practitioner and the client; (5) the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly; (6) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the practitioner; | <ul style="list-style-type: none"> (7) the amount involved, and the results obtained; (8) the time limitations imposed by the client or by the circumstances; (9) the nature and length of the professional relationship with the client; (10) the experience, reputation, and ability of the practitioner or practitioners performing the services; (11) whether the fee is fixed or contingent; (12) the time and labor required; and (13) whether the client gave informed consent* to the fee. <p>SOURCE: CA Bar Ethics Rules</p> |
|--|--|



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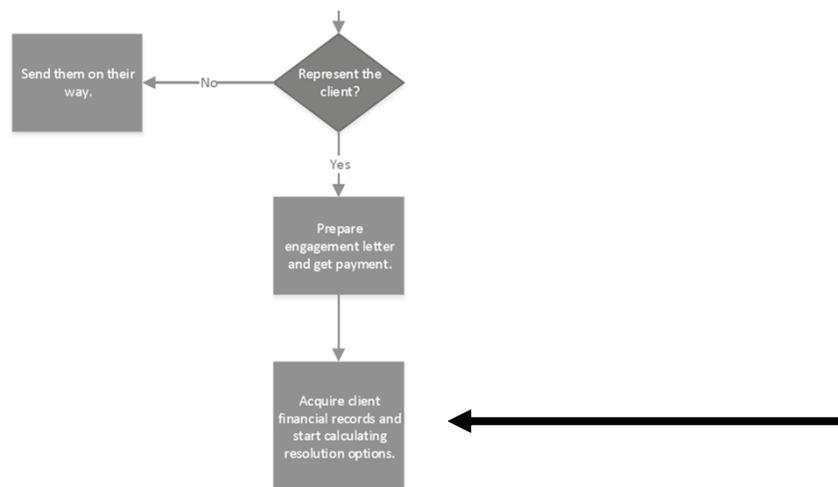
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Pricing Strategies

- ▶ Consider hourly pricing for appeals and audit engagements as opposed to a flat fee.
- ▶ Consider upcharges for the following circumstances:
 - Levies
 - Revenue Officers
 - Revenue Agents
 - Approaching Deadlines (i.e. Rush Work)
- ▶ Pricing based on debt amount – the higher the debt the more variables, the greater the IRS interest and the more time spent!

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Start Resolution



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Start Resolution

- ▶ Best practice tip. Ask the client to get their free credit report. This will assist you with financial history.
- ▶ Best practice tip: Anytime you can get data from a 3rd party source like a credit report, IRS Transcript, LexisNexis, or other source do it.

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Free Credit Reports

- ▶ I would request at least one, but there are three.
- ▶ Experian is the one I prefer, but they are all similar.
 - <http://www.annualcreditreport.com/>

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Free LexisNexis Accurint Report

▶ The taxpayer can request their LexisNexis report:

- <https://www.lexisnexis.com/en-us/privacy/for-consumers/request-personal-information.page>
- Or Google: “LexisNexis Accurint report”

What is on a LexisNexis Report?

The report includes items such as real estate transaction and ownership data, lien, judgment, and bankruptcy records, professional license information, assets and historical addresses.

Example Report: http://www.lexisnexis.com/pdf/CLReport_Sample.pdf



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