

Period Appealed

4Q 2014, 1Q 2015, 2Q 2015, 3Q 2015, 4Q 2015, 1Q 2016, 2Q 2016

Explanation as to Why Continued Levy is Inappropriate

ABC Health Center (“ABC”) is a 420-bed nursing home located in Anytown, Connecticut, which cares for hundreds of elderly and infirmed patients. The levy action by the IRS will result in the inability of ABC to make payroll or attend to patient care (including purchasing medicine, etc.), requiring it to immediately file for bankruptcy or seek to be placed under state receivership, so as not to risk harm to patients or disruption of medical and nursing services. Enforcement of the levy action would be, to say the least, disastrous to patient care and the well-being of the sick and infirmed residents.

On May 26, 2016, the undersigned counsel for ABC reached an agreement with the IRS whereby ABC would bring itself into compliance for the second quarter 2016 by June 3, 2016 and remain in compliance with weekly tax deposit requirements. In fact, ABC did bring itself current and on June 3, 2016 made all of the required second quarter 2016 tax deposits. Further, all of the outstanding taxes have been paid for the first quarter 2016 (although there are certain unpaid penalties still outstanding). Apparently, however, a June 1, 2016 EFTPS payment was returned, but was replaced immediately – *by June 3, 2016*.

Nevertheless, the IRS issued levies on payments due ABC from the State of Connecticut, and other payors. Therefore, ABC initiated a CAP. On June 27, 2016, IRS Appeals (AO NAME) sustained the levies, stating that since the June 1, 2016 tax deposit was returned the agreement was in breach. IRS Appeals further noted that while the June 8th payment had been made, the June 17th deposit had been returned. However, that deposit was only returned because

the IRS had levied on the very account from which the funds were to be drawn causing the payment to bounce.

Without the receipt of the funds that are due, ABC will be unable to operate.

Accordingly, allowing the levy to remain in place would be devastating for the patients residing at ABC. Given that ABC is current for tax deposits for the second quarter 2016, it has materially complied with the May 26, 2016 agreement (additionally, as part of this agreement, a ABC affiliate full paid the amounts it owed). Thus, ABC and its affiliates have remitted more than \$800,000 in the month of June to the IRS.

ABC should be allowed to continue its process of resolving its tax issues. If ABC is shut down, there will be no ability for it to repay the remaining tax debts owed. If it is allowed to continue to operate, however, it will be able to establish a repayment plan and anticipates full paying its back tax liabilities. Indeed, ABC's fortunes have recently improved due to the closure of a near-by nursing facility.

ABC realizes its situation is dire and is trying hard to comply with deposit requirements. However, if the levy is sustained patient care will be jeopardized and ABC will be unable to pay the remaining tax debt. Accordingly, it is in the interest of all stakeholders – the IRS, patients under ABC's care and ABC – for ABC to continue to operate and pay down its tax liabilities.

ABC is working very hard to resolve its tax issues and improve its compliance. Given the amount of money paid in June 2016, ABC has the wherewithal to address these issues and is doing so. For these reasons, TAS should order the release of the subject levies and permit ABC to operate for the benefit of its patients and to formulate a plan to repay all of its back taxes. In order to ensure tax deposits are made, ABC agrees to provide certified bank checks to the

Revenue Office assigned to this matter until such time as a repayment plan is formulated to ensure no further tax deposits are returned.