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### Course Description

This instructor-led seminar will provide advanced guidance to practitioners working with Revenue Officers (RO) and Revenue Agents (RA). Attendees will be versed in the taxpayer right, Right to Representation, as outlined in the Taxpayer Bill of Rights and Internal Revenue Manual (IRM). We will identify the most common instances of RO and RA overreaching, with a

focus on direct taxpayer contact when a valid 2848 is on file. If a RO or RA overreaches or bypasses a POA, attendees will know what steps to take and appropriate parties at the IRS that should be notified if rights are breached. We will also discuss the consequences that should be expected if a taxpayer refuses to meet with the RO or RA without their representative.

### **Learning Objectives**

- I. Understand the scope of the taxpayer's right to representation
- II. Recognize specific actions a RO/RA may take that are not in line with IRS policy, pursuant to the IRM and IRC
- III. Explain to a client the practical consequences of refusing to meet or communicate with a RO/RA without their representative present
- IV. Identify the appropriate parties overreaching by a RO/RA should be reported: IRS Group Managers, Territory Managers, Taxpayer Advocate, and TIGTA
- V. Use a client's appeal rights so an IRS Settlement Officer may intervene, rather than working directly with the RO/RA

### **Introduction**

A seasoned Practitioner knows the pros and cons of working with a Revenue Officer/Agent verses Automated Collections Service (ACS)/General Examinations (Exams).

Let's identify a few *pros* to working with a Revenue Officer/Agent:

- Speak with the same person about client cases
- More experience dealing with delinquent taxpayers
- Better understanding of the tax code, IRM, and IRS policies

Let's identify a few *pros* to working with ACS or general Exams:

- Every time you call, someone answers
- Shortened Collection Information Statements are required
- Little to no substantiation/supporting documentation is required

On the flipside, let's discuss the common *cons* to working directly with a Revenue Officer/Agent

- Only one person may solve your client's problem and they are rarely available
- The feared "Pop-In" – unbeknownst to the client, or representative on file with CAF, a personal appearance occurs, a.k.a. Field Visit
- There may be a history with the taxpayer, prior to representation, that leads the Service to believe voluntary compliance is not a common goal

On the flipside, let's discuss the common *cons* to working directly with ACS or Exams:

- Little to no familiarity or application of the IRC or IRM
- Requests for documentation that are not required or will result in the same determination (loan denial letter when notice of federal tax liens are on file and there is little disposable income)
- Inability to provide direct Group Manager contact information (limited to Taxpayer Advocate Service, RE: Form 911)

As seasoned practitioners our clients rely on our expertise, and pay our reasonable fees, because we have the know-how to navigate the administrative avenues available to all taxpayers. The IRS may not scream said rights from the hills, but we as representatives climb that hill to invoke those rights.

### **Taxpayer's Right to Representation**

The IRS provides express rights to taxpayers which are outlined in Publication 1, Your Rights as a Taxpayer, cleverly titled "The Taxpayer Bill of Rights". There are ten rights outlined but we shall focus on number 9:

#### **The Right to Retain Representation**

Taxpayers have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS. Taxpayers have the right to seek

assistance from a Low-Income Taxpayer Clinic if they cannot afford representation.

<https://www.irs.gov/pub/irs-pdf/p1.pdf>

A right written is not necessarily a right respected, which is why representatives need to know exactly how to effectively be heard, recognized, and acknowledged. In most cases, a Revenue Officer/Agent is more than pleased, if not relieved, to find a Practitioner is on file with CAF. The tax code and collection process are confusing and ever changing, which means the lay taxpayer is confused, wary, and downright fearful of the Internal Revenue Service. When a Revenue Officer/Agent has 150 cases and half of those taxpayers never heard the word “compliance” when it comes to matters of taxation...there is some common ground between Practitioners and the Service.

Educating our clients is the best service we as experienced tax professionals provide – give one a fish, they eat for a day...teach one to fish, they eat for life. Taxes are for life (yaddah yaddah death and taxes). In order to be successful as a tax practitioner, we must teach our clients why it is beneficial to adhere to the tax code; only then will we be able to work together. Our goal is bifurcated; fix the immediate problem and ensure they never, ever, are in this situation again – this is where our long-term value lays.

Practically speaking, once a taxpayer becomes a “client” we have a fiduciary duty to advocate, educate, and protect their rights. This is no small task given the number of administrative “avenues” available. I hope this seminar provides a *AAA trip-tic guide* to navigating the higher-level IRS departments and agents.

### **Revenue Officer/Agent Bad Behavior**

Now that we have walked the idealistic path, let us talk about the actual rough streets Revenue Officers/Agents sometimes create for practitioners.

No text, no email, just a land line...seriously. Contact is the most important piece of creating a symbiotic relationship between parties, especially when they are adversarial.

There are instances we come across that are a natural part of an adversarial relationship, but there are acts that go beyond representing “your client” (whether your client is the IRS or a taxpayer).

Professionalism is not inherent, so as representatives of taxpayers, we ought to hold ourselves to the highest standard. We will come across Revenue Officers/Agents that breach that line of professionalism which is why there are available safeguards that provide a remedy.

A few examples of common behavior or actions that rise to the level of “*bad behavior*” are listed below. Keep in mind this list is not exclusive; these are the most common bumps in the road a tax professional comes across while representing a client.

- No timely response to a practitioner’s phone calls, faxes, or mailings
- Contacting a taxpayer directly, i.e. bypassing POA
- Field visits without notice to a practitioner on file with CAF
- Failure to send notices to the taxpayer and **practitioner**
- Refusal to accept a valid alternative to collection, i.e. hardship, installment agreement, etc.
- Claiming “delay of collections” based on the Revenue Officer/Agents singular belief a taxpayer is failing to disclose
- Utilizing enforcement action without providing a reasonable amount of notice or an opportunity to cure
- Refusing to provide Group Management contact information or schedule a conference with management
- Continual requests for documentation that will not change the determination and overly burden the taxpayer
- Contacting third parties without notifying the taxpayer or practitioner, which may lead to negative financial decisions (lenders, contracts with clients, renewals, employee retention, etc.)
- Actions that are not in line with the IS policy to incentivize and support “Voluntary Compliance”

Now that we have identified the *headaches* practitioners face daily, what now? Firstly, know you are not alone. The above *headaches* are the same ones our paying clients are faced with, hence hiring a professional. We are meant to provide solutions, secret doors, express communication to the top, etc.

It is time to discuss how to react when we encounter said bad behavior and a single Revenue Officer/Agent is assigned to the case. We have all tried to call ACS, or Priority Practitioner Service (PPS) for a second opinion or solution, however, we are redirected to the assigned Revenue Officer/Agent.

Luckily, the federal government provided us with *back-up*. There are individuals within the IRS and organizations outside of the Service that should be relied upon if a Revenue Officer/Agent becomes noncooperative.

These resources are listed in chronological order, meaning I would not contact TIGTA before filing a 911 with Taxpayer Advocate Services.

1. The Group Manager is the first stop when assistance is needed.
  - a. PRACTICE TIP: **always** request the RO or RA group manager name, phone and fax number during the first communication.
2. The Territory Managers may be the second stop of the Group Manager cannot be reached.
  - a. PRACTICE TIP: Keep a master list of Group Manager and Territory Manager phone and fax numbers.
3. File a Form 911 with Taxpayer Advocate Service (TAS) – see Form 911 in course materials.
4. Freedom of Information Act (FOIA)
  - a. PRACTICE TIP: Use the letter template below when making a formal FOIA request for IRS records. [www.foia.gov](http://www.foia.gov)
5. Treasury Inspector General for Tax Administration (TIGTA)
  - a. THE INVESTIGATIVE PROGRAM  
The Office of Investigations investigates activities related to fraud, waste, abuse and mismanagement concerning activities of the IRS and related entities (the IRS Oversight Board and Chief Counsel).  
[https://www.treasury.gov/tigta/about\\_what.shtml#8](https://www.treasury.gov/tigta/about_what.shtml#8)

### **Group Manager Contact Information**

\*\*\*PRACTICE TIP: If you are unable to reach the Revenue Officer/Agent then you may not be able to obtain their Group Manager's contact information. Try calling a Revenue Officer/Agent or Group Manager that is cooperative and ask for the specific regional manager's contact information (this is shared data between all managers). Also, try contacting the stakeholder liaison if the Group Manager is not available or becomes uncooperative.

### **IRS Stakeholder Liaison Contacts**

Stakeholder Liaison establishes relationships with practitioner and industry organizations as well as other organizations that support the American taxpayer. We provide information about the policies, practices and procedures the IRS uses to ensure compliance with the tax laws. We also elevate issues that affect tax administration using the Issue Management Resolution System (IMRS) – an internal database that streamlines and facilitates issue identification, resolution or response and feedback. The IMRS is an internal database used by stakeholder liaisons to address issues identified by stakeholders concerning tax administration. IMRS provides a streamlined and structured process that facilitates issue identification, resolution or response and feedback. To establish a relationship with us or report an issue, use this list to find a contact in your state.

Stakeholder Liaison Area	Phone	Email
Area 2 (CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VT)	<a href="tel:412-404-9151">412-404-9151</a>	<a href="mailto:CL.SL.Area.2@irs.gov">CL.SL.Area.2@irs.gov</a> ✉
Area 3 (AL, DC, IA, IL, IN, KY, MI, NC, OH, TN, VA, WV)	<a href="tel:405-982-6807">405-982-6807</a>	<a href="mailto:CL.SL.Area.3@irs.gov">CL.SL.Area.3@irs.gov</a> ✉
Area 4 (AR, FL, GA, LA, MS, PR, SC, TX, and U.S. VI)	<a href="tel:216-415-3518">216-415-3518</a>	<a href="mailto:CL.SL.Area.4@irs.gov">CL.SL.Area.4@irs.gov</a> ✉
Area 5 (CA, HI, ID, MT, NV, WY)	<a href="tel:203-492-8630">203-492-8630</a>	<a href="mailto:CL.SL.Area.5@irs.gov">CL.SL.Area.5@irs.gov</a> ✉
Area 6 (AK, AZ, CO, KS, MN, MO, ND, NE, NM, OK, OR, SD, UT, WA, WI)	<a href="tel:206-946-3703">206-946-3703</a>	<a href="mailto:CL.SL.Area.6@irs.gov">CL.SL.Area.6@irs.gov</a> ✉

### **Freedom of Information Act (FOIA) Letter Template**

Representative, EA  
 Community Tax, LLC  
 123 Street  
 Chicago, IL 12345  
 Phone: (773) ...

DATE

Internal Revenue Service  
 Central Processing Unit  
 Stop 93A  
 Post Office Box 621506  
 Atlanta, GA 30362  
 (fax) 877-891-6035

Dear Disclosure Manager:

This is a request under the Freedom of Information Act/Privacy Act.

I request that a copy of all records pertaining to the IRS collection case for my client, **Client Name (Client SSN, EIN or TIN)**, be provided to me. More specifically, all information pertaining to the Offer in Compromise Unit handling the case, including but not limited to the Offer Examiner Agent Name and their direct Manager's involvement.

I do not wish to inspect the documents first. In order to determine my status for the applicability of fees, you should know that I am a licensed Attorney and the Authorized Representative, as



confirmed through the CAF Unit (2848 Power of Attorney is on file), for the above referenced taxpayer.

As proof of identity I am including a photocopy of my driver's license, notarized declaration, sworn statement, etc.

I am willing to pay fees for this request up to a maximum of \$20.00. If you estimate that the fees will exceed this limit, please inform me first.

Thank you for your consideration of this request.

Sincerely,

Representative, EA

### **Summons**

If the Service is unable to voluntarily procure information or documentation from a taxpayer that is necessary for the ongoing investigation, Revenue Officers and Agents have the power to summons. If a summons is issued to a taxpayer, they should appear at the scheduled date and time or provide all information requested on the summons prior to the scheduled date.

If a taxpayer fails to appear or provide the requested information on the summons, then the Service may seek Civil Enforcement. The effect of a proceeding under IRC 7604 is to **obtain the assistance of the court in forcing the summoned person to give the desired information** to the Service by having the court issue an order to that effect. Disobedience of such an order would be a civil contempt punishable by the court. **I.R.M. 5.17.6.23 (12-11-2007).**

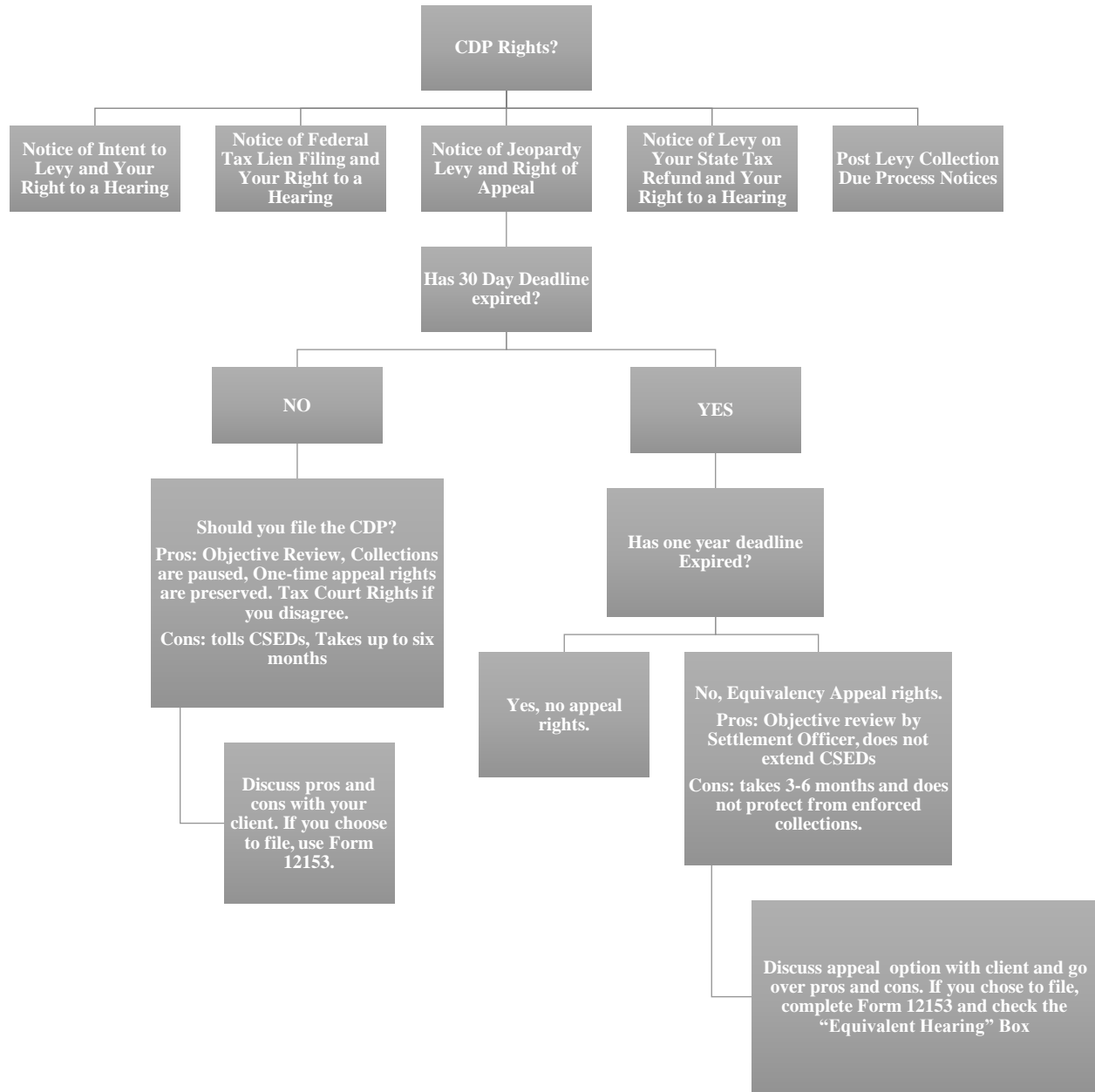
If Civil Enforcement is sought through the courts and the taxpayer fails to appear or provide the information requested, a court order will be issued requiring adherence. If the taxpayer disregards the court order, then Criminal Enforcement may be sought to enforce the court order. Criminal enforcement is typically a fine and/or incarceration.

Practically, if the information on the summons is provided (timely or not), a Revenue Officer/Agent would be foolish to seek Civil Enforcement of said summons simply because the

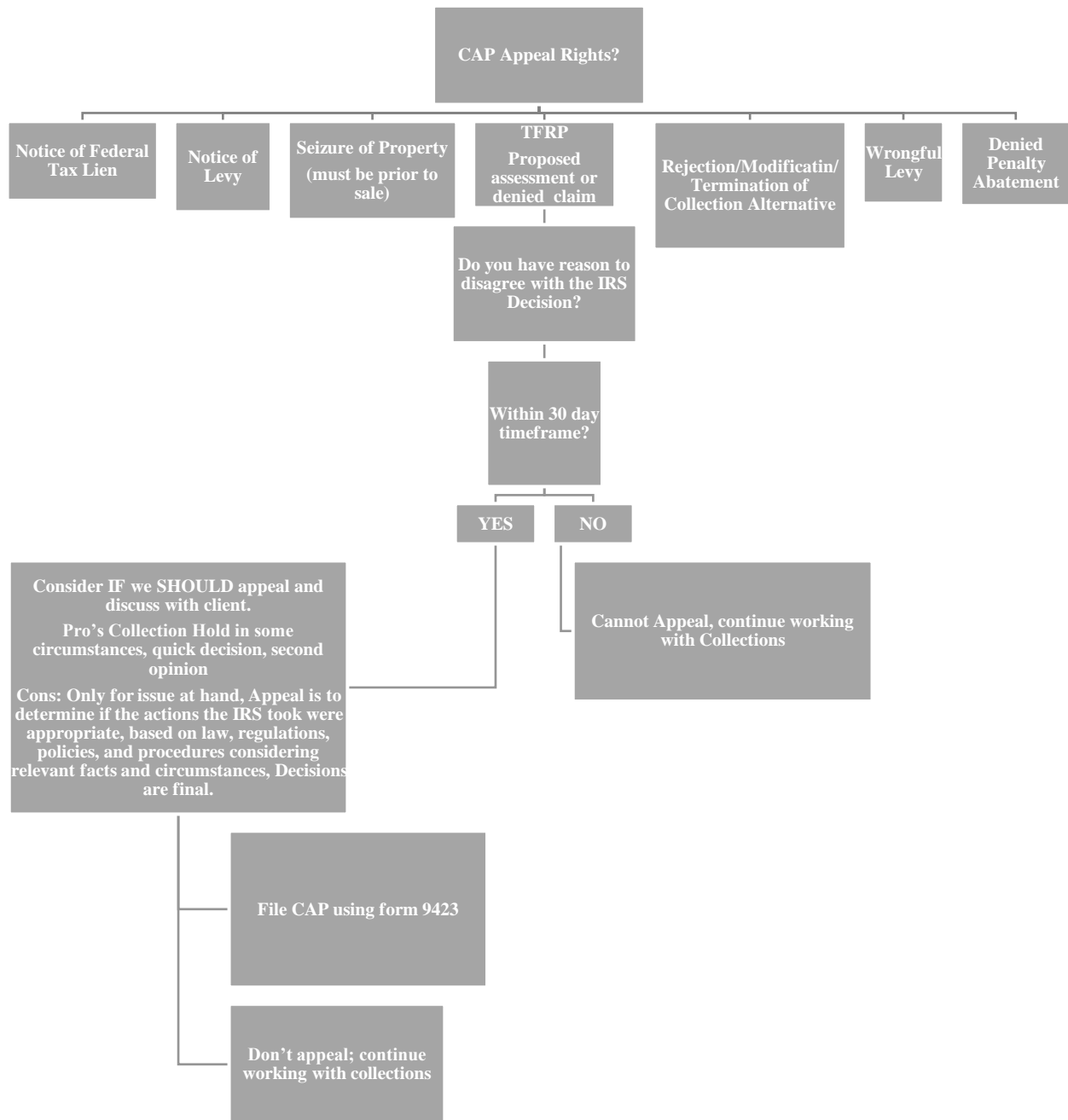
personal appearance was not made. If the information is provided without the need for a physical appearance, why would a judge grant a court order to appear...

**PRACTICE TIP:** Even if the taxpayer appears in person for the summons but refuses to submit to questioning and to the request for documents, that person cannot be compelled to remain and continue the interview. The next step is Civil Enforcement.

**Appeals – Collection Due Process (CDP)**



**Appeals – Collection Appeal Process**




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**Bonus Outline: Revenue Officers and Collection Information Statements, 433-A CIS**

- Introduction to Working with Revenue Officers
  - Who are Revenue Officers?
    - IRS field collection officers who are responsible for collecting money from severely delinquent taxpayers
  - When does a Revenue Officer get assigned?
    - Individual tax liabilities of over \$250,000 (must be handled by RO)
    - Business tax liabilities of over \$25,000
    - Anytime a BMF CIS is needed
    - Anytime TFRP
    - Seizure action
    - Other instances not fitting into the above
      - IRM 5.5 Decedent Estates and Estate Taxes
      - Other situations
        - Seemingly randomly (below \$250k IMF debt)
        - Pyramiding debt
        - Lots of missing returns
        - Large CSED expiration or upcoming CSEDs
  - What powers do Revenue Officers have?
    - Levies and garnishments, property seizures, filing notices of tax liens, etc.
      - IRM 5.10 Seizure and Sale
        - Personal and Real Property can be seized
          - Homes, land, IRAs, alcohol licenses
      - IRM 5.11 Notice of Levy (668-A or 668-W)
        - Bank and wage levies
      - IRM 5.12 Federal Tax Liens (ltr 3172)
        - Notice of Federal Tax Lien
      - IRM 5.17.6.1 Summons
        - “In general, the Service should issue summonses only when the taxpayer (or other witness) will not produce the desired records or other information voluntarily.”
        - “Before issuing any summons, the Service should consider: (a) The possibility that judicial enforcement will be required, and (b) The adverse effect on future voluntary compliance if enforcement is abandoned.”
        - Used to gather information and documents when taxpayer is fairly non-responsive
      - IRM 5.7.4 Trust Fund Recovery Penalties
        - Business liabilities can be assessed personally to a “responsible” person who was required to collect, account for, and pay over taxes held in trust who willfully failed to collect, failed to account for, failed to pay, or attempted in any manner

to evade or defeat tax or the payment thereof. IRM 5.7.3.1 (08-06-2015).

- RO must be assigned to assess TFRP
- What will Revenue Officers usually do when they are first assigned to a case?
  - They will make a “field visit” to the taxpayer – they will stop by and give the taxpayer their business card
  - They will check for compliance and do a “drive by” to see what sort of assets the taxpayer may have
  - They will request financials from a client on a Form 433-A
    - If balance is under \$25k, you can formally request an SIA without financials
- What if you do not know the Revenue Officer’s contact information or whether a Revenue Officer is even assigned?
  - Call PPS and ask if a Revenue Officer has been assigned to the case.
  - Ask for the contact information of the general office line for the RO
  - You can usually find the contact information on a levy notice, a 9297 (summary of taxpayer contact), or other correspondence from the Revenue Officer
    - You can also ask the taxpayer if he or she has the Revenue Officer’s contact information
- Form 433-A (Collection Information Statement)
  - What is the Form 433-A?
    - A form showing the financial condition of the taxpayer (income, expenses, and assets)
    - Form 433-A can be found at <https://www.irs.gov/pub/irs-pdf/f433a.pdf>
    - This form differs from the Form 433-A (OIC)
  - Section 1 – Personal Information
    - Taxpayer information – name, social security number, address, spouse, dependents, marital status
  - Section 2 – Employment Information
    - Name and address of employers for taxpayer and spouse (if applicable)
    - Occupation
    - Number of withholding allowances on Form W-4
    - Pay period (weekly, bi-weekly, semi-monthly, monthly)
  - Section 3 – Other Financial Information
    - Is the taxpayer a current party to a lawsuit?
    - Has the taxpayer ever filed for bankruptcy?
    - Has the taxpayer lived outside of the US for 6 months or longer within the last 10 years?
    - Is the taxpayer a beneficiary of a trust, estate, or life insurance policy?
    - Is the taxpayer a trustee, fiduciary, or contributor of a trust?
    - Does the taxpayer have a safety deposit box?

- Has the taxpayer transferred any assets for less than their full value in the last 10 years?
  - Section 4 – Personal Asset Information
    - Personal Bank Accounts
      - Type of account (checking, savings, etc.)
      - Account Balance
      - Revenue Officer will ask for bank statements
    - Investments
      - Stocks, bonds, mutual funds, stock options, CDs, IRA, Keogh, 401(k) plans
      - Corporations, partnerships, LLCs, and other business entities in which taxpayer is an officer, director, owner, member, or otherwise has a financial interest
    - Virtual Currency (NEW ADDITION)
    - Available Lines of Credit and Bank Issued Credit Cards
    - Whole Life Insurance Policies
    - Real Property
      - Homes, land, buildings, etc.
      - Use the county assessor’s website, if possible
    - Personal Vehicles Leased and Purchased
      - You don’t need mileage to value a vehicle
      - You only need to include the year, make, model, current FMV, current loan balance, amount of monthly payment, date of final payment, equity, and the name of the lender/lessor
    - Personal Assets
      - Don’t ask the client to list their furniture, paintings, and jewelry – the Revenue Officer generally won’t care unless they have a Rembrandt or the Hope Diamond
  - Section 5 – Monthly Income and Expenses
    - Income (list all sources of income)
    - Expenses (make sure these are substantiated by bank statements or other documents)
      - Use IRS standards to your advantage for food/clothing, vehicle operating costs, and out of pocket health care costs
      - If the taxpayer is not making ETPs (and is required to make them), try to use IRM 5.10.13.2.2.6 (06-23-2017) Other Necessary Expenses to get ETPs included. “Current federal, FICA, Medicare, state and local taxes are allowed regardless of whether the taxpayer made them in the past or not.”
      - Use actuals for all other expenses – make sure expenses are as accurate as possible
      - Notes on some specific expenses

- Delinquent State or Local Taxes: You can claim state tax payment plans, but you should have substantiation for the payment and liability
  - Vehicle Operating Costs: Dealing with Revenue Officers is different from the OIC unit – don't try to claim an additional \$200 for operating costs on an old vehicle
  - Secured Debts: Loan payments are generally not allowed unless the debt is “secured”
    - A secured debt is backed by collateral to reduce the risk associated with lending, e.g. mortgage, 401(k) loan, car loan, etc.
- Section 6 & 7 – Self Employed Section
  - Section 6: Business Information
    - Name of business, type of business, number of employees, frequency of tax deposits, gross monthly payroll, payment processor, credit cards accepted by the business, business bank accounts, accounts receivable, business assets
    - If applicable, the Revenue Officer will ask for business bank statements and may ask for other supporting documents as well (W-3, payroll returns, etc.)
  - Section 7: Sole Proprietorship Information
    - Basically, a profit and loss for the Schedule C business
    - Methods of calculating profit and loss for the business
      - Bookkeeping
      - Using an updated profit and loss from the client
      - Calculating the profit and loss by comparing the bank deposits with last year's Schedule C and using a proportionate amount of expenses
    - The net business income on line 89 gets entered into line 23 in Section 5...BEWARE of DEPRECIATION
- POA can sign the 433-A on behalf of the taxpayer as long as the Form 2848 is valid
- Basic Revenue Officer Resolutions (Personal)
  - Streamlined Installment Agreements (Individual)
    - Can immediately request without financials if the personal balance is below \$25,000
    - Revenue Officer may request financials for cases with balances over \$25,000 though financials are not necessary – they will usually honor requests for an SIA as long as it will pay the balance in full within 72 months
    - Revenue Officers may set up an 84-month IA because, which was a pilot program but has now become a formal resolution available – so for balances between \$50k - \$100k, assessed, the RO may require a CIS 433-A but may accept an 84 month pay in full direct debit IA.



- Partial Pay Installment Agreements
  - Requires financials and substantiation – IRS will take the entire DI
- 6-year Rule IAs (\$100k+)
  - Revenue Officers will require financials and will ask the taxpayer to set up an IA based on the DI
  - The balance MUST be paid off within 72 months (CSEDs must be kept in mind)
- Currently Not Collectible
  - Revenue Officers will close out the file as CNC if the taxpayer shows no ability to pay and does not have sufficient liquid assets to partially pay or satisfy the liability
- Liquid Assets
  - If the taxpayer has an asset (aside from their primary residence) that he or she can sell to help pay down the balance, the Revenue Officer will ask the taxpayer to sell or attempt to sell the asset, e.g. a second property or land
    - Note: If the taxpayer fails to comply, the Revenue Officer may move to seize/levy the property and auction it off.
      - Case Example: 920629
  - Primary Residences – unlikely to be seized, but can be in certain circumstances with a court order
    - IRM 5.17.3.5.5 (08-29-2017) Seizure of a Residence/Principal Residence
- Offers in Compromise
  - If an offer is filed, the OE or OS may use the Revenue Officer’s determination in regard to the financial statement (they may not reinvestigate the income, expenses, and FMV of assets). IRM 5.8.5.3.1 (09-30-2013) Verification.
    - If there is a discrepancy between the taxpayer’s and RO’s financials, the OE or OS should resolve it by discussing it with the taxpayer
  - Revenue Officers must forward the offer to the COIC unit within 24 hours if received. IRM 5.8.1.12.1 (11-08-2018).
- Basic Revenue Officer Resolutions (Business)
  - Business IA (24 months)
  - Business CNC (business should be closed)
  - Business OIC
  - Business PPIA