

## **Delinquent Taxpayers Could Lose Their Passports** **By Gary S. Wolfe, Esq.**

Effective 12/4/15 US Taxpayers with a seriously delinquent IRS debt i.e. over \$50k, (including tax, interest, and penalty cumulative for all years) may result in either revocation or denial of a passport (See Sec 32101 of newly enacted "FAST ACT" - Fixing America's Surface Transportation Act). The US Secretary of State, upon receipt of a list of names from the IRS, may make any one on the list ineligible for a passport (Taxpayer will be separately notified).

This passport revocation/denial is for US taxes only (not State taxes). The law applies to "seriously delinquent taxpayers" and a "seriously delinquent tax debt" i.e. unpaid, legally enforceable federal tax liability which tax has either been assessed or a notice of federal tax lien/levy has been filed. Exceptions that may apply:

- 1) Tax Debt is subject to Offer in Compromise
- 2) Tax Debt is subject to installment agreement
- 3) Collection Action suspended by Taxpayer requested a Collection Due Process Hearing
- 4) Taxpayer made application for Innocent Spouse relief.

IRS must follow its normal examination and collection procedures and allow taxpayer the chance to exercise their full administrative rights. IRS collection communications must now include a provision that additional notice of potential loss of passport is included in collection communications.

The US Secretary of State is authorized to deny a passport for those taxpayers on the IRS list and for those taxpayers whose passport application fails to provide a SS#, provides an incorrect or invalid SS# but only if the wrong SS# was provided "willfully, intentionally, recklessly or negligently". Exceptions are permitted for emergency or humanitarian circumstances e.g. there's a need for the applicant to return to the US.

In the event of mistake, there is a provision in the new law for "Reversal of Certification," the IRS is required to notify the Secretary of Treasury who will notify the Secretary of State:

- 1) if the original certification was made in error,
  - 2) or if the tax debt is fully satisfied;
  - 3) or ceases to be "a seriously delinquent tax debt".
- The new law provides a limited right to seek injunctive relief by a Taxpayer who is wrongly certified.

### **WHAT TO DO**

For all US taxpayers who owe over \$50k in taxes I recommend you take this new law quite seriously or find yourself unable to travel abroad or return to the US from abroad.

If you owe more than \$50k, if viable immediately pay the balance down to less than \$50k (tax, interest and penalty). If you cannot pay the balance down apply for an IRS Offer-in-Compromise and suspend collection. If the tax debt is not accurate or not due seek and IRS Due Process Collection Hearing , suspend IRS collection so the right balance due can be ascertained.

For those taxpayers in this unfortunate position, send me an e-mail on a no-names basis and I will let you know if I can help you to [gsw@gswlaw.com](mailto:gsw@gswlaw.com).

Although this tax provision appears new, and arcane, its implications for the multi-trillion \$ travel industry are enormous. As the expression goes "Don't leave home without it" (i.e. your passport), or as the commercial asks: "What is the value of your passport?" If you travel internationally your passport is "PRICELESS".

For more information see Forbes.com article, ["New Law Warns Delinquent Taxpayers: Pay Up Or You Could Lose Your Passport."](#)