Chapter 10: IRS Update
Learning Objectives

Upon completion of this seminar, participants should be able to—

- Identify current issues when working with the IRS on behalf of clients.
- Register and use on-line services.
Key Developments

• IRS service continues to decline under weight of budget pressures, but some improvements have occurred with correspondence backlog. Page 147

• Failures of the passport revocation program per NTA. Page 148

• Record retention requirements. Page 148-149

• IRS can require PTINs but can no longer charge for PTINs plus IRS may be forced to refund $300 million. Page 150

• Problems can be created by a faulty federal filing address. Page 151

• ITINs must be renewed at some point. They must be acquired prior to return filing. Page 152
Key Developments

• IRS based on its future vision continue to expand online services. Page 152-153

• While IRS communicates many changes via irs.gov, it is not authority and the site changes without notice. Page 155.

• Solutions when the IRS shows your client is on the death master list but is not deceased. Page 155

• Private debt collectors are back at work for the IRS. Page 156-158
I. IRS View of the 2017 Filing Season

Oh really:
IRS funding has decreased by 20% since 2010

But NTA Nina Olson says IRS only spends 4% of its budget on taxpayer service and 60% on compliance.

Her position – IRS is trying to force congress into budget increases by creating public outrage.
I. IRS View of the 2017 Filing Season

Telephone Service:
800-829-1040 answered 76-79% of the time within 25 minutes, BUT
Beyond basic information requests, answered only 40% of the time with average waits of 47 minutes
TAS says that IRS only answers 25% of its calls
AND
IRS says that number will be 39% in FY 2017
WHO IS FOOLING WHO?
I. IRS View of the 2017 Filing Season

What about our correspondence to IRS?
Commissioner says the backlog is down by:

- FYE 2014 – 900,000
- FYE 2015 – 859,000
- FYE 2016 – 690,000
- On 04/2017 – 660,000

Evidence is clear that resources are being moved from telephone to mail, the IRS during the same periods answered 32% less phone calls.
I. IRS View of the 2017 Filing Season

C. Taxpayer Assistance Centers – Appointments encouraged, walk-ins mostly denied. Return filing, payment remittance or obtaining document, met with “Out of Scope”

D. Audit Rates –

Tax Filings up 1.9%
Audit Rate down to 0.6%
Examiners did only 1/3rd of exams the rest were correspondence.
I. The National Taxpayer Advocate (NTA) And Other Concerns

Passport revocations and denials – Occurring without warning or notice. Any taxpayer with an unpaid balance of $50,000 should call before travel.

Private Debt Collection Starts up Again.
III. Retention of Tax Records

General Rule – 3 years from filing or 2 years from date of payment.

The Exceptions:

7 – Bad Debt or Worthless Security
6 – Omission of 25% or more of gross income
? – For fraudulent returns
III. Retention of Tax Records

- **Capital Assets**
  - Holding Period plus up to Seven Years

- **Amended and Carryforwards**
  - Carryforward Period Plus Filing Statute
III. Retention of Tax Records

Resources – Send your client here:

III. Retention of Tax Records

It is difficult to answer the client question: HOW LONG SHOULD I KEEP WHAT.

F. The IRS offers some resources on record retention:

2. Publication 583 – Starting a Business and Keeping Records

Tax Return Copies FOREVER.
IV. Virtual IRS Appeals

The IRS has announced the beginning of their long awaited “virtual appeals conference”.

- Pilot Program, but IRS wants to expand to a nationwide program.

- Attempting to address statutory right of taxpayer to have a face to face appeals conference.

- Trial is to determine what works and what does not work prior to national rollout.
V. PTINs and the Registration of Tax Preparers

The Timeline:

- **2014** - IRS fails in its attempts to “register” tax preparers, Loving v. IRS, 742 F. 3d 1013
- **2017** – IRS is successful in requiring a PTIN but loses its ability to charge a fee, Steele v. US
- **2017** – IRS appeals decision prohibiting from charging a fee for a PTIN and resists the requirement to refund an estimated $300 million.
- **We wait.**
V. PTINs and the Registration of Tax Preparers

So what can we expect, no one is sure:

**OBSERVATION:** The IRS has yet to indicate how the refund process would work, assuming a failure of the DOJ to obtain a reversal of the lower court’s decision of the legality of charging a fee. Any refund will be property of the PTIN holder. Many firms have in the ordinary course of business paid the PTIN fees of their staff, expressing concern for any refund process. Expect that decision to take some time as the current estimate is that IRS would be required to refund approximately $300 million, coming out of an already stressed budget.

Consider the PTIN process in your office and current best practice recommendation:

- Get a PO Box for address of record
- Obtain a “special” e-mail address.
V. PTINs and the Registration of Tax Preparers

Going forward:

- PTINs can be obtained for no fee from IRS at this time.
- The 2018 registration process is expected to begin in late October.
- [irs.gov/tax-professionals/ptin-requirements-for-tax-return-preparers](https://irs.gov/tax-professionals/ptin-requirements-for-tax-return-preparers)

The president’s budget proposal has a line item which asks for a statutory change to require regulation of tax preparers.
VI. Federal Return Address Creates State Income Tax Problem

Consider carefully the federal filing address:

Facts – Continued using AR address after relocation to “provide a stable address”.

State Position – She continued residency in AR because of the address.

Decision – She continued to be a resident of Arkansas as she continued her “attachment” to the state.
VI. Federal Return Address Creates State Income Tax Problem

E. The taxpayer failed to take affirmative steps to establish residency somewhere other than her prior home state.

1. She retained her AR driver’s license
2. She retained her AR auto license.
3. She continue to pay AR personal property taxes
4. She filed using an AR address, the most likely cause of the interest by AR.
VI. Federal Return Address Creates State Income Tax Problem

Confusing state rules:
For many states a single minute will count as a day.
Wake up in New York and go to sleep in New Jersey, you have added an additional day to the year.

TAX PLANNING: Understand where your client spends their time. Many taxpayers have permanent living arrangements in multiple states which can create problems of residency. The tax trap is the statute of limitations. Failure to recognize nexus in one state can lead to a tax liability that cannot be recovered using a credit in another state.
VI. Federal Return Address Creates State Income Tax Problem

Consider some other residency precautions:

1. Change the status of your prior home, insurance, real estate tax, etc.
2. Auto, change the registration.
3. Register to vote in your new home state.
VII. ITIN Renewal

Warning:

If your taxpayer is using an ITIN for themselves or a dependent now has a renewal of some kind. Those ITINs not used for the past three years

Or

ITINs with middle digits of 70, 71, 72 or 80 expire on 12/31/2017 and can not be used for filing for returns due in 2018.

IRS is notifying affected taxpayers by CP-48
VIII. Online Taxpayer Services Expand

The IRS current strategy is to move customers to self help.

To that end they continue to add new tools frequently, some examples of recent tools:
Balance due with linked payment options.
18 months of tax payment history (yes, get those estimated tax payments).
Online Transcripts.

Requires a “Secure Access” registration.
VIII. Online Taxpayer Services Expand

At [irs.gov/help/tools](https://irs.gov/help/tools) a comprehensive listing of available online tools can be located.

**Tools**

- FAQs
- Report Phishing
- Fraud/Scams
- Notices and Letters
- Taxpayer Advocate Service
- Appeals
- Interactive Tax Assistant
- Accessibility

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**Notification**

Use the [Interactive Tax Assistant tool](https://irs.gov/interactive-tax-assistant) to find answers to your tax law questions.

Browse the tax tools available for individual taxpayers, businesses, and tax professionals.

**For Individual Taxpayers**

**Transcripts**

[Get Transcript](https://irs.gov/get-transcript)

Get a copy of your tax transcript online or by mail.

**Filing**

[Free File](https://irs.gov/free-file)

Prepare and file your federal income taxes online – it’s easy and it’s free.

[Authorized e-file Provider](https://irs.gov/e-file)

Locate an authorized e-file provider in your area who can electronically file your tax return.

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**More Resources**

- IRS2Go App
- Address Changes
- Affordable Care Act Estimator Tools
- Filing
- Direct Pay Help
- Tax Season Refund Frequently Asked Questions
- Online FIN Frequently Asked Questions
- [Search now >](https://irs.gov/search)
VIII. Online Taxpayer Services Expand

Some cool tools options:

E. Taxpayers can sign up for email notifications for two online payments systems, IRS Direct Pay and EFTPS. These notifications can be sent to the taxpayer’s personal email accounts:

1. If the taxpayer has a representative such as a payroll provider or accountant making deposits on their behalf the taxpayer they can receive a notification each time a transaction occurs for their account.

2. There will be no links in the IRS transaction notification e-mail. If a taxpayer receives a transaction confirmation with an embedded link it is a phishing attempt.
IX. Registration Using Secure Access

Registration on the site requires these steps:

1. Submit name and email address, you will receive a confirmation code to that address.
2. Enter the confirmation code in the online registration form.

IRS

Enter email confirmation

We just sent you an email to ric
Please keep this window open so you can open your email in another tab or window.

Enter Email Confirmation Code:
9318-2870

Your confirmation code is: 9318-2870
This code will expire in 15 minutes. Enter it into the Email Confirmation Code field as soon as possible to access your requested service.

This is an automated email. Please do not reply.

The IRS will never initiate contact through email asking taxpayers for personal or financial information.

CANCEL CONTINUE
IX. Registration Using Secure Access

Registration on the site requires these steps:

3. Provide the following info:
   - SSN and DOB
   - Mailing address of most recently filed individual tax return.
IX. Registration Using Secure Access

Registration on the site requires these steps:

4. Provide the last 8 digits of a credit card, auto loan, or home loan.

5. Provide a mobile phone number to receive an activation code.

We need to verify your phone number

We take extra steps to verify your identity by sending a text message to your mobile phone. Your name must be associated with your mobile phone account to verify your phone number today. This service won’t work on Pay-As-You-Go (Prepaid), plans, landlines, Skype, Google Voice, or similar virtual phones. This phone number should be a US-based phone (country code +1).

Mobile Phone Number

A text message will be sent to your phone. Message and data rates may apply. By continuing, you opt-in to receive a confirmation code via text message each time you log in. We won’t use your phone number for any other communication.

CANCEL  SEND MESSAGE

Alternative Options

- Receive an activation code by postal mail (5-10 calendar days)
- Review options that don’t require a mobile phone
IX. Registration Using Secure Access

Registration on this site requires these steps:

6. Enter the activation code on the form.
IX. Registration Using Secure Access

Registration on the site requires these steps:

7. Create a username, password, site phrase and select a site image.
After an exhaustive search you find what you are looking for on irs.gov, so now you are safe, right?

Slow down, SB/SE recently said:

B. From the IRS perspective it was stated recently by the SB/SE division. A memorandum was issued to IRS Field Examination Area Directors that “information published on irs.gov is not legal authority unless it has been published in the Internal Revenue Bulletin”.
The problem:

It has become very common place for IRS to issue “guidance” on irs.gov by the use of extensive FAQs, even examiners now regularly use the terms, good FAQs and bad FAQs. If there is no indication that it is “official publish guidance” the information is considered a “secondary source”.

Consider it information under construction
Always consider the hierarchy of authority.

- U.S Constitution
- U.S Internal Revenue Code
- U.S Treasury Regulations
- Legislative History
- Judicial Authority
- IRS Positions
- Secondary Sources
XI. The IRS Thinks your Client is Dead

Background – The SSA maintains a death master file which they provide to the IRS.

Each year about 9,000 very alive people are added this list.

CP01H is the official notice from IRS that the taxpayer is on the “death master file”.

Kind of spooky – It is estimated that six million deceased Americans are considered alive by SSA...
XI. The IRS Thinks your Client is Dead

SSA has a listing of documents to “prove” the individual is alive.

Visit the SSA as quickly as possible when an individual has been incorrectly labeled as deceased. There are twelve documents that SSA will accept as proof that you are in fact living. A list can be found at [https://faq.ssa.gov/link/portal/34011/34019/Article/4120/What-should-I-do-if-I-am-incorrectly-listed-as-deceased-in-Social-Security-s-records](https://faq.ssa.gov/link/portal/34011/34019/Article/4120/What-should-I-do-if-I-am-incorrectly-listed-as-deceased-in-Social-Security-s-records).

However, the taxpayer is considered deceased by the IRS until SSA updates the “death list” removing the taxpayer from the here-after.
XII. Earlier Due Dates for Form W-2

The Question on Everybody’s Mind:
Did the earlier W-2 filings really help, well GAO said?

✔ 214 million Form W-2s filed processed by 02/17.

✔ IRS was able to verify 35% of all EITC claims.

✔ IRS did have info for 7.7 million returns by 02/17

✔ IRS never had enough info to verify 12.3

GAO says IRS needs to update more often.
XIII. Private Debt Collection has Started

IRS is now required to use PDC for certain taxpayers:

1. Those taxpayers removed from active inventory due to lack of IRS resources and

2. At least 1/3\textsuperscript{rd} of the statutory collection period has expired.

3. The account has been assigned to collection but no interaction between IRS and the taxpayers has occurred for more than 365 days.
XIII. Private Debt Collection has Started

Why would the taxpayer cooperate with the PDC?
They have none of the seizure powers the IRS possess, but the PDC will:

1. Attempt to determine the current address of the taxpayer.
2. Attempt to initiate an IA of no more than 5 years.
3. They cannot take any payments, those go to the IRS.
XIII. Private Debt Collection has Started

D. The notification process:

1. IRS will send a letter to the taxpayer’s last known address indicating they will be part of the PDC program.

2. The PCA (Private Collection Agency) will notify the taxpayer of the assignment to the PCA.

3. The taxpayer will be able to go to the IRS website to verify their assignment and determine that the 10 digit number assigned to the taxpayer is legitimate.