



COMMISSIONER
SMALL BUSINESS/SELF-EMPLOYED DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

March 30, 2017

Kenneth M. Horwitz
Chair, Federal Tax Policy Committee
Texas Society of Certified Public Accountants
14651 Dallas Parkway, Suite 700
Dallas, TX 75254

Dear Mr. Horwitz,

Thank you for your letter to Commissioner Koskinen dated March 9, 2017, raising concerns regarding IRS's implementation of IRC § 7345. I appreciate you bringing these concerns to our attention and your suggestions for improving the process. The Fixing America's Surface Transportation Act (FAST Act) authorizes the Secretary of State (Department of State) to deny or revoke the passport of any individual who is certified as having a "seriously delinquent tax debt." Under the FAST Act, the IRS has the responsibility for certifying to the Department of State there is a seriously delinquent tax debt, but it is the Department of State who issues, denies and revokes passports. Section 7345 of the Code governs the certification process. IRS plans on implementing section 7345 this year.

Opportunity for Public Comment

In your letter, you requested IRS guidance on implementing section 7345, as well as the CP508C certification notice, be made available for public comment. Because the section is sufficiently clear and is self-executing, IRS has no plans to issue any guidance under section 7345 for which notice and comment are required. We will continue to take steps to apprise the public of our implementation. IRS plans to issue a notice in the Internal Revenue Bulletin before implementation begins and has added two sections to the Internal Revenue Manual (IRM) regarding implementation, IRM 5.17.5.21 and 25.3.3.7.5.

Appeal Rights

Section 7345 provides a limited right for judicial, but not for administrative review. A taxpayer, after being notified of a certification or a reversal of a certification, may bring a civil action against the United States in a federal district court or the Tax Court to challenge whether the certification was erroneous or whether IRS failed to reverse the certification. Taxpayers will have previously been afforded the opportunity to

administratively appeal liability or collection issues on which their certifications are based. Those opportunities must have lapsed or been exhausted before certification takes place.

Certification notifies taxpayers their passport may be revoked or will not be renewed (or their application for a new passport will be denied). A certification does not result in an automatic revocation of a taxpayer's passport.

Notice to Taxpayer

IRS has determined notification will be by regular mail based on the taxpayer's last known address. Regular mailing to the taxpayer's last known address is appropriate because a taxpayer may file a civil action after certification at any time. Certification does not automatically result in revocation of a passport. Passport applications will be held for 90 days to allow taxpayers to resolve their tax matters. IRS plans on referencing section 7345 in other IRS notices and Publications. The State Department will communicate with applicants based on the information provided with the initial passport or renewal application.

Protecting Privacy

IRS agrees protecting taxpayer privacy is extremely important. Data will be transmitted to the Department of State via a secure process. Under the FAST Act, information disclosed may only be used by the Department of State for the sole purpose of carrying out the Act. IRC 6103 requires all officers, employees of the United States to maintain the confidentiality of return information and such confidentiality provisions apply in the hand of both IRS and the State Department.

Negotiating Payment

Certifications will be reversed in accordance with section 7345 when a taxpayer meets exclusion criteria. IRS plans to address the issue you raise before implementing section 7345.

Calculating the \$50,000 Threshold

Certifications will be reversed in accordance with section 7435 when a taxpayer meets exclusion criteria. For example, certifications will be reversed when a taxpayer enters into an offer in compromise or an installment agreement, but the fact the liability is paid down below \$50,000 would not result in a reversal of the certification. Nevertheless, under the FAST Act, the Department of State may renew or grant a passport for emergency or humanitarian reasons, even if the liability is not fully paid.

Unable to Satisfy the Debt

IRS plans to address the issue you raise before implementing section 7345.

Bankruptcy

IRS plans to address the issue you raise before implementing section 7345.

Processing Delays

IRS will work with the Department of State to minimize any delays.

Dual Citizens

The Department of State issues visas to non-U.S. citizens and will be responsible for deciding whether to issue a visa in the situation you describe.

Once again, thank you for your comments regarding the IRS's implementation of IRC § 7345. I appreciate you bringing these concerns to our attention and for your suggestions. We will continue to apprise the public as we move forward in our efforts toward implementation.

Sincerely,



Mary Beth Murphy
Commissioner Small Business/Self Employed Division