IRS REPRESENTATION Conference

Welcome!

The 12th Annual IRS Representation Conference

Housekeeping Items

- CPE Certificates – you can claim at the end of the program
- Try and stick to the agenda so you do not miss any of the online attendance pop-ups
- Issues? Email us at team@taxrepllc.com

Agenda

- **1:00 pm – 2:00 pm: IRS Enforcement Update**
- **2:00 pm – 3:00 pm: Where's My Money? Obtaining Refunds Amidst IRS Chaos**
- **3:00 pm – 3:15 pm: Coffee Break**
- **3:15 pm – 5:00 pm: IRS Automated Collections: How to Resolve Back Tax Debts in 2025 and Beyond**

IRS Enforcement Update

Michael Sardar, Esq.
Eric Green, Esq.

TRN
TAX REP NETWORK

Michael Sardar

Partner

KOSTELANETZ LLP

Michael Sardar has extensive experience working on a wide range of tax controversy and white-collar criminal defense matters. Michael represents clients in all stages of civil and criminal tax controversies before the Internal Revenue Service (IRS), state tax authorities, the Department of Justice, and local prosecutors.

Michael also represents and advises taxpayers facing audits and investigations of noncompliance with IRS foreign bank and asset reporting requirements. In addition, Michael has a great deal of experience representing corporate and individual taxpayers making voluntary disclosures of unreported income to the IRS and state tax authorities.

Michael joined Kostelanetz LLP in 2009 and was named partner in January 2019. Michael is Co-Chair of the Federal Bar Association (FBA) Section on Taxation, New York Chapter. He also serves as Co-Chair of the Subcommittee on Offshore Enforcement of the ABA Committee on Civil and Criminal Tax Penalties. He is a former Vice-Chair of the New York County Lawyers' Association (NYCLA) Taxation Committee. Michael lectures and writes frequently on tax controversy topics, including foreign asset reporting and non-compliance.

Michael graduated *summa cum laude* from Baruch College with a bachelor's degree in Business Administration and received his law degree from Cornell University Law School in 2007.

Eric Green, Esq.

- Managing partner in Green & Sklarz LLC, a boutique tax firm with offices in Connecticut and New York.
- Focus is civil and criminal taxpayer representation before the Department of Justice Tax Division, Internal Revenue Service and state Departments of Revenue Services.
- Has served as a columnist for CCH's Journal of Practice & Procedure.
- Attorney Green is the past Chair of the Executive Committee of the Connecticut Bar Association's Tax Section.
- Eric is a Fellow of the American College of Tax Counsel ("ACTC").
- Founder of Tax Net Network

IRS Status

Trump, DOGE, and the IRS

Source: depositphotos

End of the IRS?

Where are we now?

- 11.3 million non-filers
- Over 15 million with balances due
- Automated enforcement began again in 2024 (AUR, ASFR, Automated Liens, and Automated levies).

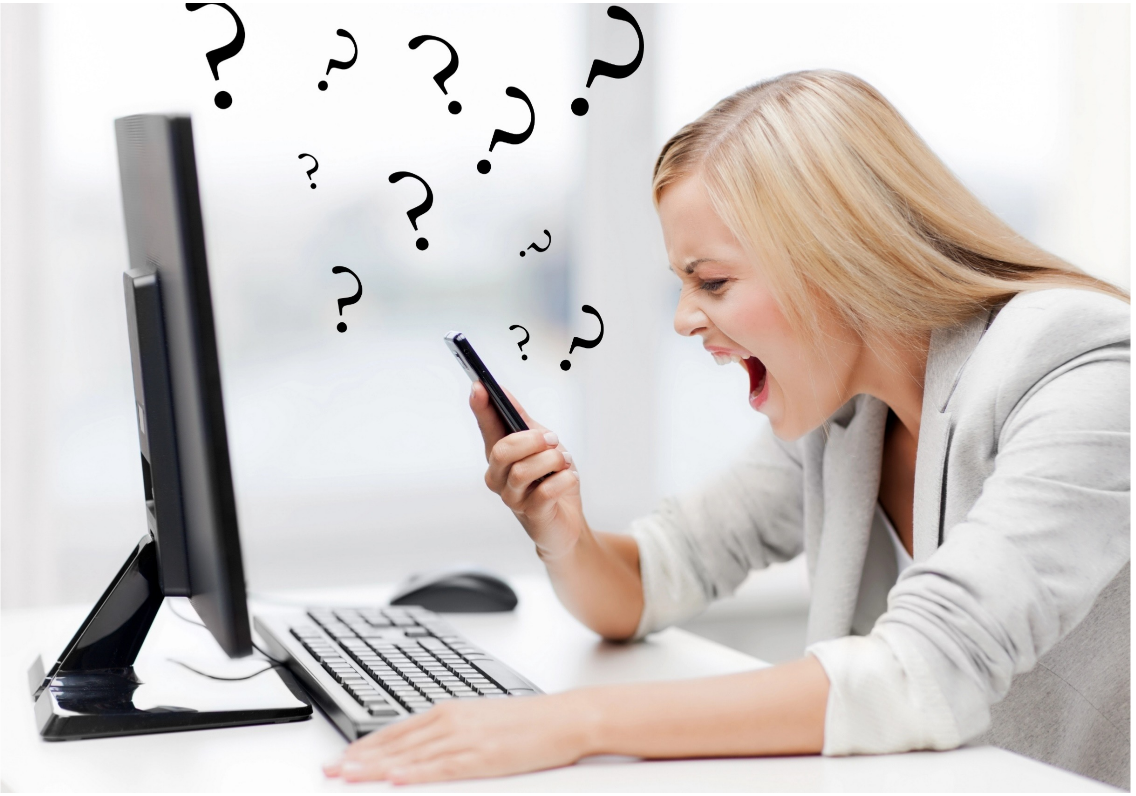
Where are we now?

- 25% of the IRS workforce let go, including 2,000 people who answered the phones.
- Government Shutdown continues with 50% furloughed
- 1/3rd of offices are being closed, including Taxpayer Assistance Centers.
- Net result: Good luck getting someone on the phone.

So the future of enforcement?

- Automation
- More demand for our services than ever.
- You need to understand the system and online portals, as the ability to talk with someone at the IRS (“the good old days”) is gone.

Six months ago



Source: depositphotos

IRS Employee

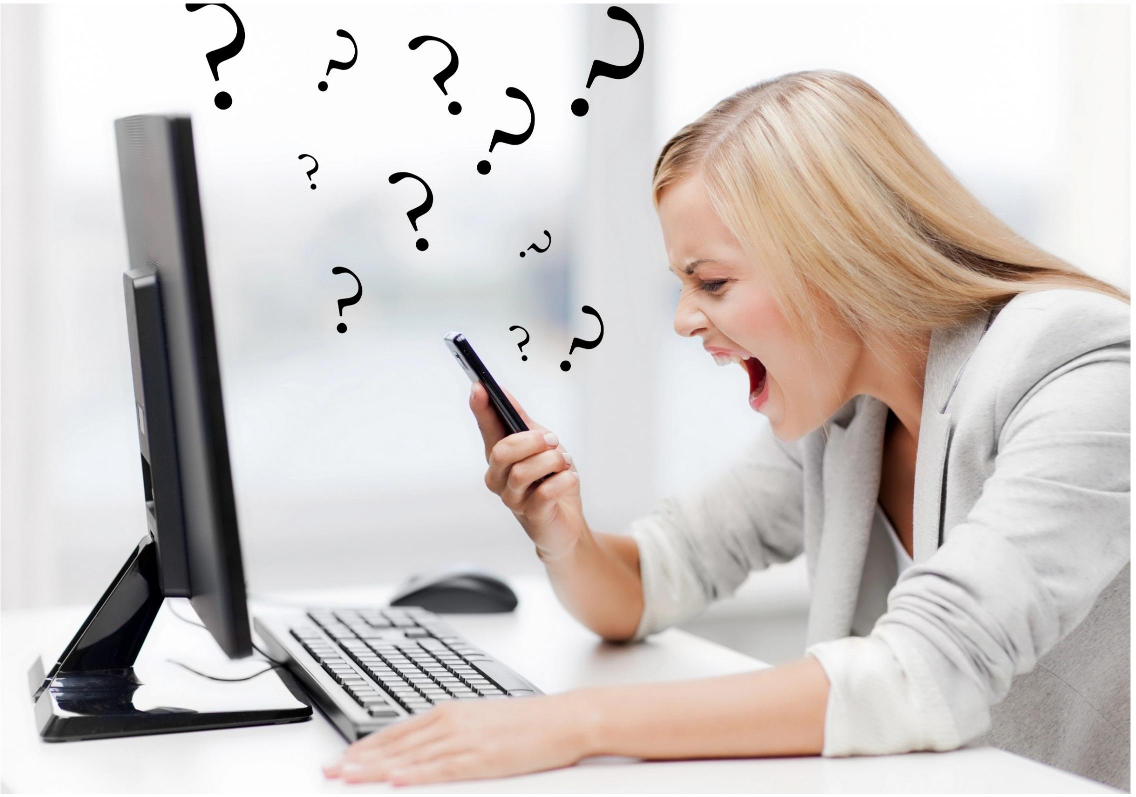
Source: depositphotos

Taxpayer

Today

Source: depositphotos

IRS Employee



Source: depositphotos

Taxpayer

Delays and Training Issues

- Very backed up
- Prepare clients for long delays on appeals, reconsideration, etc
- Employees answering the phones often are unable to respond for lack of training
- Actual response: "I know the levy should be released but I don't know how to do that."

Source: depositphotos

Administrative Updates

Voluntary Disclosure Form 14457

- IRS had added a checkbox for taxpayers to admit their actions were willful.
- Practitioners and TAS pushed back, arguing it created self-incrimination risk if the taxpayer was ultimately not admitted to the program
- IRS removed the box in its latest version (July 2025)

14457 (released 11/2024)

Catalog Number 61637F | www.irs.gov | Form **14457** (Rev. 11-2024)

Page 7 of 19

By signing this document, I certify that I am willing to continue to cooperate with the IRS, including in assessing my income tax liabilities and making arrangements to full pay all taxes, interest, and penalties associated with this voluntary disclosure.

☐ I have prepared and will all hold all required documents to provide to the examiner upon initial contact including, but not limited to, delinquent and/or amended returns, bank statements and financial records

☐ I was willful in the actions that led to my tax noncompliance and understand that willfulness is a requirement to be considered for entry into the VDP

Note: Failure to check this box will result in an automatic denial into the VDP and no appeals or reinstatements will be granted.

Under penalties of perjury, I declare that I have examined this document and accompanying schedules and statements and to the best of my knowledge and belief, they are true, correct, and complete.

Signature of taxpayer	Name *(print/type)*	Date
Signature of taxpayer's spouse	Name *(print/type)*	Date

The power of attorney may not sign the voluntary disclosure letter on behalf of the taxpayers.

IRS reserves the right to make further contacts with the taxpayer to clarify his/her submission.

Privacy Act and Paperwork Reduction Act Notice

Updated 14457 as of 07/2025

Catalog Number 61637F | www.irs.gov | Form **14457** (Rev. 7-2025)

Page 7 of 19

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Privacy Act and Paperwork Reduction Act Notice

Appeals Internal Case Memoranda

- Appeals has announced that internal Appeals Case Memoranda (ACM) will be provided upon informal written or verbal request.
- An ACM is an internal memo from IRS Appeals that explains the IRS' reasoning and analysis in the resolution of each case..
- Is very helpful if preparing a tax court filing, or a Post Appeals Mediation hearing (next slide).

Appeals starts Post Appeals Mediation pilot program

- The IRS Independent Office of Appeals is launching a two-year pilot program to make Post Appeals Mediation (PAM) more attractive to taxpayers
- Taxpayers can request PAM at the conclusion of an unsuccessful Appeals proceeding, and if the request is accepted, the parties meet in an accelerated mediation session where they make a final attempt to negotiate a mutually acceptable resolution.
- These sessions usually last one day.

Appeals starts Post Appeals Mediation pilot program

- They are facilitated by an Appeals mediator with no connection to the underlying case, and taxpayers are invited to include a co-mediator at their own expense.
- This change is not intended to create a new appeal, but instead to facilitate an expedited fresh look at the case in which mediators help the parties explore all potential paths to resolution prior to potential litigation.

{The author believes the massive increase in litigation is creating stress on counsel and IRS needs to try and settle more of these cases. ~ ELG}

Employee Retention Credit

- Section 70605 of the One Big Beautiful Bill Act enacted enforcement provisions for COVID-related ERC.
- Any ERC claims for Quarter 3 or Quarter 4 of 2021 filed after January 31, 2024 are disallowed.
- The statute of limitations for ERC assessments is extended to six years; taxpayers should retain ERC-related documentation for the extended period.
- Relief is provided by extending the income-tax statute of limitations related to wages so that, where ERC is denied, taxpayers can adjust business expense to include previously excluded ERC-related wages.

Employee Retention Credit

- The Act establishes a $1,000 penalty for any “COVID-ERTC promoter” who provides aid, assistance, or advice regarding any “COVID-ERTC document” and fails to comply with due-diligence requirements with respect to eligibility or amount; the penalty is assessed per failure and diligence requirements mirror section 6695(g).
- Section 6676 is expanded to employment-tax claims by incorporating ERC. “COVID-ERTC promoter” is defined by reference to fee characteristics; certified professional employer organizations are excluded. “COVID-ERTC document” includes any document related to eligibility for or calculation of ERC.

Supervisory Approval of Penalties

- Under 26 U.S.C. § 6751(b)(1) that "no penalty under [Title 26] shall be assessed unless the initial determination of such assessment is personally approved (in writing) by the immediate supervisor of the individual making such determination or such higher level official as the Secretary may designate."
- IRS finalized regulations addressing timeliness of supervisory approval. 26 C.F.R. § 301.6751(b)-1. The regulations are not retroactive and apply only to penalties imposed after publication.
- Generally, for assessable penalties, approval is timely if it occurs before assessment.

Supervisory Approval of Penalties

- For deficiency penalties, approval is timely if it occurs before a statutory notice of deficiency identifying the penalty is mailed to the taxpayer.
- On January 30, 2025, the Senate Finance Committee released a bipartisan discussion draft that would reject the timing approach in the regulations and require written supervisory approval before the "initial determination to apply such penalty," defined as the first written notice to a taxpayer that a specific penalty applies in a specific amount based on specific facts and circumstances.
- On February 27, 2025, a Congressional Review Act disapproval resolution was introduced but did not receive a vote.

Supervisory Approval of Penalties

- In 2025, the Fifth Circuit in *Swift* held that section 6751(b) requires written supervisory approval before assessment of the penalty or, if earlier, before the relevant supervisor loses discretion whether to approve the assessment.
- The Eleventh Circuit in *Battat* reaffirmed that approval is timely if it occurs before assessment.
- In September 2025, the House Ways and Means Committee scheduled markup of the "Fair and Accountable IRS Reviews Act," with a JCT description stating that approval would need to precede any written communication to the taxpayer with respect to a penalty.

United States Tax Court Improvement Act

- As of September 2025, the House Ways and Means Committee scheduled markup of the “Tax Court Improvement Act.”
- Would authorize the issuance of subpoenas during pretrial discovery
- Authorize special trial judges to hear additional matters, including declaratory judgments, small-case deficiency matters where the amount in dispute does not exceed $50,000, collection due process, certain employee-classification cases, and whistleblower appeals, and provide certain contempt powers;
- Provide new guidelines for Tax Court judge recusals C
- Clarify that deadlines for filing petitions in deficiency cases can be equitably tolled.

Recent Cases

Case update

- *US vs. Sagoo*, No. 4:24-CV-01159-O (N.D. Tex) (09/19/2025)
- *HDH Group Inc. vs. United States*, Civil Action 2:24-CV-988 (W.D. Penn), (09/23/2025)
- *Silver Moss Properties, LLC vs. Commissioner*, No. 10646-21 (USTC), 08/21/2025
- *Arden Row Assets, LLC v. Internal Revenue Service,* Civil Action No. 23-2696 (JDB)(D.D.C.) 08/20/2025
- *Veribest Vesta, LLC v. Commissioner,* No. 9158-23 (USTC)(07/17/2025)

US vs. Sagoo

- Sharnjeet K. Sagoo held interests in financial accounts in Kenya, India, and England. Sagoo did not file FBARs, and the IRS assessed FBAR penalties. When Sagoo did not pay the penalties, the government sued.
- The court dismissed the suit. The court held that Sagoo was entitled to a jury trial under the Seventh Amendment before assessment.
- The court rejected the government's argument that a jury trial after assessment was adequate under the Seventh Amendment.
- The IRS "acted as prosecutor, jury, and judge" when it assessed the penalties.
- This resulted in "real world impacts," such as the possibility of administrative offsets.

HDH Group Inc. vs. United States

- The IRS assessed the promoter penalty under IRC § 6700 against HDH Group, Inc.
- HDH argued that it did not receive a jury trial before assessment and that this violated the Seventh Amendment.
- The court rejected HDH's argument. HDH was entitled to a jury trial after assessment, and HDH's liability at that trial would be determined de novo.
- The court distinguished cases where judicial review was available only in the appellate courts and under a deferential standard.

Silver Moss Properties, LLC vs. Commissioner

- Silver Moss Properties, LLC challenged the IRS's disallowance of a conservation easement deduction. The IRS's answer asserted a fraud penalty under IRC § 6663(a).
- Silver Moss argued that it was entitled to a jury trial for the penalty.
- The Tax Court rejected Silver Moss's argument. Congress's limited waiver of sovereign immunity allowed Silver Moss's suit but did not allow a jury trial.
- Moreover, the collection of revenue has long been recognized as a public right, and *Jarkesy* held that the Seventh Amendment did not apply to public rights.

Arden Row Assets, LLC v. Internal Revenue Service

- The IRS imposed penalties on Arden Row Assets, LLC; Basswood Aggregates, LLC; and Delwood Resources, LLC.
- The taxpayers challenged the penalties in the Tax Court.
- Documents produced in the Tax Court revealed that the IRS backdated approval of the penalties.
- The taxpayers submitted FOIA requests seeking documents related to the IRS's penalty approval. The IRS withheld documents on the basis that the documents were protected by the deliberative process privilege and that disclosing the documents would interfere with the Tax Court proceedings.

Arden Row Assets, LLC v. Internal Revenue Service

- The district court sided with the IRS.
- The taxpayers argued that the deliberative process privilege did not apply in cases of "government misconduct," but the government misconduct exception did not apply if the conduct was "legally harmless."
- The penalty approval, though backdated, was made during the period permitted by IRC § 6751. The court was also persuaded by the IRS's explanation that disclosing the documents would "give premature insight into the strength of the IRS's position [in the Tax Court]; elucidate which evidence the IRS's positions were based on; and reveal the nature, direction, scope and focus of the Service's case."

Veribest Vesta, LLC v. Commissioner

- Veribest Vesta, LLC owned land that was the site of an old granite quarry. Veribest Vesta donated a conservation easement on the land and valued the easement at $20.3 million.
- The court rejected Veribest Vesta's valuation, adopting the IRS's valuation of $111,000.
- Veribest Vesta valued the conservation easement using a discounted cash flow approach. This approach valued both the land and the going concern value of an operating quarry on the land.
- The IRS used a comparable sales method that valued only the land, not the value of an operating quarry.

Veribest Vesta, LLC v. Commissioner

- The court sided with the IRS. The court also warned that it might impose sanctions under IRC § 6673(a)(2) in similar cases.
- The taxpayer had argued for a value over one hundred times the value ultimately found by the Tax Court, and the Court observed that multiple cases had rejected valuing land based on the value of a business on the land.
- The Court admonished Veribest Vesta for pursuing a two-week trial in support of its valuation, finding that it harmed "both the unrelated fact witnesses and the tax system in general."

Statutory Update

Taxpayer Assistance and Service Act (TAS Act).

- Reforms the Whistleblower Program to include:
- Standard of review – clarify that the review of whistleblower cases in Tax Court are de novo
- Exemption from sequestration for awards – currently whistleblowers are entitled to a floor award of 15% of the amount collected thanks to their efforts. However, only the tax whistleblower program is subject to sequestration (commonly 5 – 6% of the award amount).

Taxpayer Assistance and Service Act (TAS Act).

- Whistleblower privacy protections – gives a presumption of a whistleblower to proceed anonymously in Tax Court.
- Encourage prompt payment of whistleblower awards –encourage the IRS to pay awards within 12 months of the first date on which all proceeds are collected
- Clarifying that attorney fees are not deductible for both the mandatory and discretionary award programs.

Taxpayer Assistance and Service Act (TAS Act).

- Encourage greater collaboration and consultation by the IRS with whistleblowers
- Allow whistleblowers to go to IRS appeals to review award determinations

Questions

Best Practices in Filing Federal Tax Refunds

Michael Sardar

Partner

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Lisa E. Perkins

Partner

Green & Sklarz LLC

KOSTELANETZ LLP

Lisa Perkins joined Green & Sklarz after more than 17 years with the U.S. Department of Justice.

She worked for five years as a trial attorney in the Western Criminal Enforcement Section of the Tax Division, prosecuting tax crimes in the western half of the United States, then moved to Connecticut. Until January 2015, she was an Assistant U.S. Attorney in Hartford, handling both civil and criminal litigation in federal court on behalf of the U.S. government.

Attorney Perkins is also an Assistant Clinical Professor and Associate Director of the Tax Clinic at UConn School of Law, where she supervises law students who represent low-income taxpayers before the IRS and in Tax Court.

Attorney Perkins has established a record of convincing government agents and attorneys to forgo criminal charges and civilly resolve many cases. In those cases where it was necessary for clients to either go to trial or plead guilty, Lisa has an exceptional track record of obtaining below guidelines sentences for clients.

Lisa is a Fellow of the American College of Tax Counsel

Attorney Perkins earned a bachelor's degree from Michigan State University, a Juris Doctor from Michigan State University College of Law and an LL.M. in Taxation from Georgetown Law..

Jeffrey M. Sklarz

Partner

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Member, Green & Sklarz LLC, a boutique business law firm located in New Haven, CT.

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Fellow of the American Bar Association

Co-Founder, Tax Rep Network

NOTICE

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The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

Nothing in this presentation should be construed to constitute investment advice, tax advice or securities advice in any way or manner.

This presentation and views expressed therein reflect the views of the individual participants and do not necessarily reflect DOJ or IRS policy.

Making a Refund Claim

Making a Refund Claim

26 U.S.C. 6511(a): Refund claim typically must be brought within -

- 3 years of filing the return; or
- 2 years of payment of the tax
- Special rules apply where assessment period is extended and for NOL carrybacks

26 U.S.C. 6511(b): Limitations on refund claims

- If the refund claim was not filed within the 3-year period "the amount of the credit or refund shall not exceed the portion of the tax paid during the 2 years immediately preceding the filing of the claim."

Making a Refund Claim (Cont.)

26 U.S.C. § 7422(a): No suit prior to filing claim for refund

"No suit or proceeding shall be maintained in any court for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Secretary, according to the provisions of law in that regard, and the regulations of the Secretary established in pursuance thereof"

Making a Refund Claim (Cont.)

Requirements for Refund Claim - IRM 4.10.11.2.1.1(1)

1. Set forth in detail each ground upon which a credit or refund is claimed and facts sufficient to apprise the IRS of the exact basis of the claim;
2. Specify the amount of the refund requested; and
3. Reflect the tax type and tax period(s) for which the refund is claimed

Requirements for Informal Claims - IRM 4.10.11.2.1.1(3)

- Informal claims are also allowed but not advised
- Informal claims must still contain sufficient information for the IRS to analyze and process the claim and be signed with proper authority

Making a Refund Claim (Cont.)

Variance Doctrine

A taxpayer generally cannot assert grounds for a refund in court that vary legally or factually from the administrative refund claim filed by the taxpayer. The purpose of the variance doctrine is to “prevent surprise” and “give the IRS adequate notice of the claim and its underlying facts so that it can make an administrative investigation and determination regarding the claim.” *Boyd v. United States*, 762 F.2d 1369, 1371 (9th Cir. 1985).

Recent Cases

- *Shleifer v. United States*, 24-CV-80713-ROSENBERG (S.D. Fla June 9, 2025)
- *Trail King Industries v. United States*, 4:24-cv-04164 (D. S.D. July 24, 2025)
- *Leopard v. United States*: 1:25-cv-00329-DAT (Ct. Cl. Oct. 2, 2025)

Making a Refund Claim (Cont.)

Flora Full Payment Rule

- *Flora v. United States*, 362 U.S. 145 (1960):
  - With limited exceptions a taxpayer must have fully paid a tax assessment for a district court to have subject matter jurisdiction over a refund claim

- *Exceptions:*
  - Divisible taxes (most common are employment taxes (including trust-fund penalties), promoter penalties, and excise taxes)

- Government typically counterclaims for the balance

Protective Refund Claim

Protective Refund Claim

- Suspends the refund statute of limitation until the taxpayer can file a complete refund claim after the occurrence of a contingency
- Not addressed in IRC or Treasury Regulations, but in case law
- Once the contingency is resolved, the taxpayer must perfect the protective refund claim by filing a formal claim for refund

Reasons for Protective Claims

- Protective claims are "normally" based on expected changes in current regulations, pending legislation, or current litigation (IRM Section 21.5.3.4.7.3(1))
- Taxpayers also frequently file protective refund claims while waiting for determinations from the IRS or other taxing authorities.

Protective Refund Claim (Cont.)

Requirements for Making a Protective Refund Claim

1. Claim must have a written component
2. Claim must identify and describe the contingencies affecting the claim
3. Claim must be sufficiently clear and definitive to alert the IRS to the essential nature of the claim
4. Claim must identify the specific year or years for which a refund is sought

(CCA 201136021)

Recent Developments

Tax Year 2025 Filing Season "Perfect Storm"

- Potential delays in tax refunds due to challenges from government shutdown, changes from the One Big Beautiful Bill Act, and operational challenges

Phase-out of Paper Refund Checks

- IRS has begun phasing out paper tax refund checks as required by EO 14247
- Likely that some people will receive paper refunds

New Form 1099-DA ("Digital Asset Proceeds From Broker Transactions")

- For transactions in tax year 2025, brokers must file Form 1099-DA for each sale or disposition of a digital asset executed on behalf of customers

Recent Developments (Cont.)

One Big Beautiful Bill Act ("OBBB")

- Standard deduction increase
- Lower individual income tax rates
- SALT Deduction ($40,000 cap through 2029)
- Qualified tips
- Overtime
- Car Loan Interest

Difficulty with reporting new tax incentives

- Ex., employers are expected to use a temporary reporting method for reporting overtime pay since current Form W-2 doesn't have a dedicated box for this type of income

Higher tax returns in 2026

- Many companies applied higher withholdings to their employees than eventually required due to delays in updating IRS tables

Best Practices

General Considerations

- Sufficiently describe the claim(s)
- File tax return early
- Check tax withholdings
- Beware the variance doctrine

Government Shutdown Considerations

- Filing and Payment Due Dates Still Apply
- Electronic Filing is the Most Reliable Option
- Live Telephone Support and In-person Services are Generally Limited or Unavailable

Next Steps

What's Next?

- Refund is paid
- Nothing happens
- Notice of disallowance (26 U.S.C. 6532(a)(1))
- IRS Exam & Appeals

Timing of Suits for Refund

- Must file within 2 years of when IRS issues claim disallowance
- If no claim disallowance is issued by IRS, taxpayer can treat as deemed disallowance after 6 months

IRS Exam & Appeals

IRS Exam & Appeals

Examination

- IRS examines taxpayer's returns
- IRS concludes examination in one of three ways: (1) no change, (2) agreed, (3) unagreed

30-Day Letter:

- If the IRS and taxpayer do not reach agreement by the end of the exam, the IRS will send a letter informing the taxpayer of their right to appeal the proposed changes
- Generally, the taxpayer has 30 days from the date of the letter to appeal the decision to the IRS

90-Day Letter:

- If the taxpayer doesn't respond to the 30-day letter, or reach a settlement with Appeals, the IRS will send a 90-day letter, also known as a notice of deficiency
- 90-day letter explains proposed changes and proposed tax increase and penalties (if applicable)
- Taxpayer has 90 days (or 150 if the notice is addressed to a person outside the US) from the date of the notice to file a petition with the U.S. Tax Court

- If the taxpayer does not petition the U.S. Tax Court, they will receive a bill for the amount due

IRS Appeals (Cont.)

Step 1: Submit Request

- Taxpayer must request Appeals consideration. *See* Treas. Reg. § 601.106(a)(1)(iii)
- Taxpayers mail their request *in writing* to the office that sent them the letter with their appeal rights

Step 2: IRS Office Reviews Request

- IRS Office that receives the request will consider the taxpayer's request and attempt to resolve the disputed tax issues
- If that office can't resolve the taxpayer's issues, they will forward the case to Appeals for consideration

Step 3: Appeals Contacts Taxpayer

- Contact within 45 days by mail to schedule informal conference
- Appeals officer discusses with the taxpayer the law as it applies to the facts of the case

IRS Appeals (Cont.)

Step 4: Appeals Officer Reviews Case

- Appeals officers review the facts, the law, the taxpayer's comments and information the taxpayer and the IRS office presented before they make a final decision

Step 5: Final Outcome

- Generally, there are three outcomes of an appeal:
  - In the IRS's favor: Appeals officer recommends taxpayer concede and give up issue
  - In the taxpayer's favor: Appeals officer recommends IRS concede and give up issue
  - Compromise: Appeals may recommend a settlement where the taxpayer pays a percentage of the tax due

IRS Exam & Appeals (Cont.)

Statute of Limitations in Refund Suits

- Two-year statute of limitations on refund suits (may be extended by written agreement)
  - Appeals does not accept claim or overassessment cases if less than 365 days remain on the statute of limitations for assessment
  - Appeals may require taxpayer extend statute of limitations before hearing case

Conclusion of Appeals Consideration in Refund

- If taxpayer and Appeals agree on a basis for closing a refund claims case, complete either Form 870 or Form 870-AD
- If claim for refund is disallowed, in whole or in part, taxpayer may need to complete Form 2297

Trust Fund Recovery Penalty

Overview

- Meant to encourage prompt payment of withheld income and employment taxes, including social security taxes, railroad retirement taxes, or collected excise taxes

26 U.S.C. 6672

"Any person required to collect, truthfully account for, and pay over any tax imposed by this title who willfully fails to collect such tax…shall…be liable to a penalty equal to the total amount of the tax evaded, or not collected, or not accounted for and paid over."

TFRP can be assessed against any person who:

- Is responsible for collecting or paying withheld income and employment taxes, or for paying collected excise taxes, and
- Willfully fails to collect or pay them

Trust Fund Recovery Penalty (Cont.)

Shorter deadline to appeal in TFRP cases:

- The IRS will provide a letter stating that they plan to assess the TFRP against the taxpayer
- Taxpayer has 60 days (75 days if addressed outside the U.S.) from the date of the letter to appeal

What if taxpayer and IRS disagree on TFRP settlement after appeals conference?

- If taxpayer makes required payment within 30 days of notice and files suit within 30 days of the IRS denial, levy action is stayed until the conclusion of the court proceedings
- Special rules apply where taxpayers don't want to make entire payment
  - Taxpayer must:
    1) Pay the contested payroll tax for at least one employee for each period of liability the taxpayer is contesting;
    2) File a refund claim for the amounts paid; and
    3) Post a bond with the IRS for 1.5 times the amount of the penalty that is left after making the payment for one employee.

Next Steps

What's Next?

- Pay tax
- File suit in court

Tax Litigation

Choice of Forum

United States District Court

- Prerequisites: full payment, administrative refund claim
- DOJ represents the United States
- Appeal is to Circuit in which District lies
- Bench or jury trials

Court of Federal Claims

- Prerequisites: full payment, administrative refund claim
- DOJ represents the United States
- Appeal is to the Federal Circuit
- Bench trials only

Tax Court?

- Taxpayer Assistance and Service Act (or "TAS Act") – Introduced January 2025
- Would provide the U.S. Tax Court with the authority to order refunds

Complaints for Refund

26 U.S.C. § 7422 Civil actions for refund

- "No suit or proceeding shall be maintained in any court for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected…until a claim for refund or credit has been duly filed with the Secretary."

Best Practices

- Timely file your complaint
- Level of detail and attachments?
- Review is de novo
- Remember your audience: judge, law clerk, DOJ/AUSA
- Properly serve your complaint

Discovery

Most Common Forms of Discovery

- Rule 30: Depositions by Oral Examination
- Rule 33: Interrogatories to Parties
- Rule 34: Request for Production of Documents
- Rule 36: Requests for Admission
- Rule 45: Subpoenas

Best Practices

- Always keep in mind review is de novo and what you need to prove your claims
- Be prepared
- Use Rule 26 to educate the court and opposing counsel about your case
- Expect document requests, requests for admission, interrogatories, and depositions

Dispositive Motions

Motion to Dismiss:
- Rule 12(b)(1) – Lack of subject-matter jurisdiction
- Rule 12(b)(6) – Dismissal for failure to state a claim

Motion for Judgment on Pleadings:
- Rule 12(c)

Motion for Summary Judgment or Partial Summary Judgment:
- Rule 56

Best Practices:
- Identify material facts in dispute to defeat motion for summary judgment
- Use motions for summary judgment to narrow issues in case
- Use motions for summary judgment as plaintiff when no disputed material facts

Settlement

Overview

- Authority for settlement not vested in trial attorney or AUSA
- DOJ directives regarding delegation of settlement authority by Attorney General currently being revised to reflect the Tax Division civil components becoming the Tax Branch of the Civil Division
- Joint Committee on Taxation must review refunds exceeding amounts set forth in 26 U.S.C. § 6405 ($2 million for individuals, $5 million for C corporations)
- Mediation either with private or court-supplied mediator or settlement conference before magistrate judge often part of pre-trial offer

Conclusion

Coffee Break

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Automated Collections:

How to Solve IRS Tax Debts in 2025 and Beyond.

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Speakers

Amanda Evans, EA

Beverly Winstead, Esq.

Christina Walker, EA

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Agenda

1. DOGE is remaking the IRS
2. Automation will rule the day
3. Is it the end of the IRS

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Trump, DOGE and the IRS: Chaos

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End of the IRS?

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Where are we right now?

- 11.3 Million Non-filers
- Over 15 million with balances due
- Automated enforcement began again in 2024 (AUR, ASFR, Automated Liens and Automated levies

Acting Commissioner of the Week

- IRS Acting Commissioner Bessent confirms the IRS plans to use A.I. to close the gap from the workforce reduction and expects collections and enforcement to continue to be robust through the use of Artificial Intelligence and automation.
- “I would expect that collections would continue to be very robust as they were this year."

IRS

- Everything shifting to automation
- DOGE told our folks at the executive level that instead of cases (audits and collection) waiting in queue they can now all be worked simultaneously
- The portals continue to be an issue….
- Future of working with the government is online

What this adds up to

- IRS just had its biggest collection year in 2024 - $5.1 Trillion
- Expect this to continue, as automated enforcement hits everyone, no more “inventory delays”

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What does this mean for us?

- Taxpayers will be unable to get help
- Automation will allow the IRS to hit more people simultaneously
- We need to understand the process
- Understand how to respond
- Recognize the business opportunity!

Goal?

- Taxpayer should voluntarily file their own return
- Taxpayers should pay their tax
- Otherwise IRS will do it for them

Automated Enforcement

- Automated Substitute for Returns
- Automated Under-Reporter (Audits)
- Automated Levy Program (CP-501, CP-504, Letter 11)
- Automated Notice of Lien

Billing Notice — CP 501

CAF Copy

SB

Department of the Treasury
Internal Revenue Service
Philadelphia, PA 19255-0525

For your reference

Notice name CP501 **Tax year** 2019
Notice date 02-26-2024
Your caller ID [redacted]
Taxpayer ID number [redacted]

New quick, easy, and secure online payments
Visit irs.gov/directpay to avoid additional interest and penalties or time lost on the phone

K8644-0079746 P007 T00306 00079746 1 AB 0.547
[redacted]

079746

To: [redacted]

We recently contacted you about your past due 2019 taxes. You must pay your balance immediately.

Amount Past Due: $771.74

You must pay by March 18, 2024 to stop further penalties and interest.

What You Need To Do Now

Pay online now from your bank
- Quick, free and easy way to pay
- Secure payment directly from your bank account without fees
- Convenient method; just use a computer or mobile device

Scan here to find information

Threat to Levy — CP-504

CAF Copy

5B
IRS Notice CP504

Department of the Treasury
Internal Revenue Service
Holtsville, NY 00501-0480

IRS

010446.711940.72399.31167 1 MB 0.672 852

[redacted]

010446

October 27, 2025

Final Balance Due Reminder – Notice of Intent to Seize (Levy) Your Property or Rights to Property

To

As of October 27, 2025, we have not received your overdue tax after sending several notices to you. You must pay your balance immediately or we may levy (seize) your property. If you don't make your payment now, we'll consider your noncompliance an active choice and you could face a levy.

Amount Due Immediately: $3,172.35

Payment must be received immediately.

What You Need To Do Immediately

Gather this information

- Your taxpayer ID number
- Form numbers (1040, 1040A or 1040EZ)
- Your filing status for the outstanding tax years
- Address from the outstanding tax years
- Your bank routing number
- Your bank account number

Pay directly online from your bank account

1. Go to IRS.gov/DirectPay
2. Select "Make a Payment"
3. Enter the following options:
   - **Reason for Payment:** Balance Due
   - **Apply Payment To:** Income Tax - Form 1040
   - **Tax Period for Payment:** 2024
4. Follow the instructions to verify your identity and submit secure bank information.

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CP-90

Department of the Treasury
Internal Revenue Service
Philadelphia, PA 19255-0010

Notice	CP90
Notice date	January 23, 2019
Social Security number	999-99-9999
To contact us	Phone 800-829-1040
Your Caller ID	9999

Page 1 of 5

JAMES & KAREN Q. SPARROW
22 BOULDER STREET
HANSON, CT 00000-7253

Intent to seize your assets and notice of your right to a hearing

Amount due immediately: $5,947.81

We haven't received full payment despite sending you several notices about your unpaid federal taxes. The IRS may seize (levy) your property. However, you can appeal the proposed seizure (levy) of your assets by requesting a Collection Due Process hearing (Internal Revenue Code Section 6330) by **February 22, 2019.**

Billing Summary

Amount you owed	$5,947.81
Additional failure-to-pay penalty	0.00
Additional interest charges	0.00
Amount due immediately	**$5,947.81**

TAX REP NETWORK

Beware the Letter 11!

- Week of June 15th ACS grinds back to life
- Final Notices issued
- Levies commence 45 days later
- The Final Notice from ACS (Letter 11) resembles the CP-504!

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Beware the Letter 11...Looks like a CP-504

CAF Copy

5B

IRS Notice CP504

Department of the Treasury
Internal Revenue Service
Holtsville, NY 00501-0480

010446.711940.72399.31167 1 MB 0.672 852

[redacted]

010446

October 27, 2025

Final Balance Due Reminder – Notice of Intent to Seize (Levy) Your Property or Rights to Property

To

As of October 27, 2025, we have not received your overdue tax after sending several notices to you. You must pay your balance immediately or we may levy (seize) your property. If you don't make your payment now, we'll consider your noncompliance an active choice and you could face a levy.

Amount Due Immediately: $3,172.35

Payment must be received immediately.

What You Need To Do Immediately

Gather this information

- Your taxpayer ID number
- Form numbers (1040, 1040A or 1040EZ)
- Your filing status for the outstanding tax years
- Address from the outstanding tax years
- Your bank routing number
- Your bank account number

Pay directly online from your bank account

1. Go to IRS.gov/DirectPay
2. Select "Make a Payment"
3. Enter the following options:
   - **Reason for Payment:** Balance Due
   - **Apply Payment To:** Income Tax - Form 1040
   - **Tax Period for Payment:** 2024
4. Follow the instructions to verify your identity and submit secure bank information.

CAF Copy

Department of the Treasury
Internal Revenue Service
ACS Support - Stop 813G
P.O. Box 145566
Cincinnati, OH 45250-5566

024790.575358.118329.16723 1 MB 0.672 858

[redacted]

024790

For your reference	
Notice name	LT11
Notice date	08/07/2025
Case Reference number	[redacted]
Taxpayer ID number	[redacted]

New quick, easy, and secure online payments
Visit IRS.gov/LT11 to avoid interest and applicable penalties or time lost on the phone.

Page 1 of 5

Notice of Intent to Levy and Your Collection Due Process Right to a Hearing

As of August 7, 2025, we haven't received your overdue tax after sending several notices to you. You must pay your balance before September 7, 2025 or we will levy (seize) your property. If you do not make your payment now, we'll consider your noncompliance an active choice and you could face a levy.

Amount Due Immediately: $695,928.34

Payment must be received before September 7, 2025 to avoid a levy on your property. For options, see page 2.

What You Need To Do Immediately

Gather this information →

- Your taxpayer ID number (see the reference box above)
- Form numbers (CIVPEN) for the outstanding tax years
- Your filing status for the outstanding tax years
- Address from the outstanding tax years
- Your bank routing number
- Your bank account number

Pay directly online from your bank account

1. Go to IRS.gov/DirectPay
2. Select "Make a Payment"
3. Follow the instructions to make your payment for each outstanding tax year

Scan here to find information to direct-pay

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Beware – 30-day CDP rights buried on page 2

Notice: LT11 Notice date: 08/07/2025 TIN: [redacted] Page 2 of 5

Consequences If You Do Not Pay Immediately

We will **seize (levy) your property or your rights to property** if you fail to comply. Property includes wages and other income, bank accounts, business assets, personal assets (including your car and home), Social Security benefits, Alaska Permanent Fund dividends, or state tax refunds.

We can **file a Notice of Federal Tax Lien**, notifying your creditors that we have a claim (lien) against all your property. If we file the lien, it may be difficult to sell or borrow against your property.

The U.S. Department of State may revoke your passport or decline to issue a new passport or renew an existing passport if you're certified as having seriously delinquent tax debt totaling more than current threshold amount (adjusted yearly). For more information, including the threshold amount, visit IRS.gov/Passports, or read Publication 594, The IRS Collection Process.

Other Options

If you do not wish to pay directly online from your bank account, you may…

Pay online by card
(additional fees may apply)

1. Go to IRS.gov/Payments
2. Select "Pay Your Taxes by Debit or Credit"
3. Select an IRS-cleared payment processor
4. Pay through the payment processor's website

Pay by check or money order

1. Make your check or money order payable to the "United States Treasury"
2. Write your taxpayer ID number (XXX-XX-3758) on your payment
3. Mail your check or money order with the payment stub on the last page, make sure to allow time for mailing and processing

Pay your balance over time
(additional interest & fees may apply)

1. If you can't pay the total amount due, pay as much as you can now and visit IRS.gov/OPA to set up a payment plan for the remaining balance.
2. For alternative options for those with financial hardships, including offer in compromise and temporary delay of collection, visit IRS.gov/Payments.

- Visit IRS.gov/LT11 for more information about this notice.
- If you can't find what you need online or need assistance, you can call the **IRS at 800-829-3903.** Find tax forms or publications by visiting IRS.gov/Forms.

How to Request an Appeals Hearing

If you want to appeal this levy action, complete the enclosed Form 12153, Request for a Collection Due Process or Equivalent Hearing, and send it to us by September 6, 2025. **If you don't request a CDP hearing by September 6, 2025 your ability to contest an Appeals decision in the U.S. Tax Court will be limited.** A request received by IRS will generally be considered timely if the request is properly addressed with correct postage and postmarked by the United States Postal Service within the 30-day period from the date of this letter. **If you send the letter after September 6, 2025, you may still be entitled to a hearing; however, your right to contest an Appeals decision in Tax Court will be limited.** Refer to the enclosed Publication 1660, Collection Appeals Rights, for more information and information on Collection Appeals Program (CAP).

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Tax Compliance

Step #1: Tax Compliance

- All returns filed that are due as of this date

- Current tax period payments being made

  a) Proper withholding

  b) Estimated tax payments

  c) Payroll tax deposits

Inside Secret

- What is compliance for tax returns?
- Last 6 years – IRM 1.2.1.6.18
- No OIC or IA without it!

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Prior Years? Substitute for Returns?

- Prior years do not need to do
- Can if you want to (NOLs, Cap Losses, etc)
- SFR is a return and actual return does not need to be filed (unless you want to)

IRS Collection Process: *Assessment*

- The IRS will assess the tax when the return is received and processed or it creates a "substitute for return" (SFR) for the taxpayer

- Pull transcripts to determine the exact date of assessment

IRS Department of the Treasury
Internal Revenue Service
PO BOX 149338
Austin TX 78714-9338

Certified Mail Number

2D-Bar Code	
Notice	3219-N
Tax Year	2000
Notice date	January 23, 2017
Social Security number	NNN-NN-NNNN
To contact us	Phone 1-866-681-4271
Hours of operation	8:00 a.m. to 8:00 p.m.
Your caller ID	123456
Last day to petition Tax Court	**April 22, 2017**
Page 1 of 8	

s018999546711s
JAMES Q. HINDS
22 BOULDER STREET
HANSON, CT 00000-7253

Notice of Deficiency
Increase in tax and notice of your right to challenge

We have determined that there is a deficiency (increase) in your 2000 income tax.

You have the right to challenge this determination in the United States Tax Court. This notice explains how the increase in tax was calculated and how you can challenge it in the Tax Court. Your petition to the Tax Court must be filed by April 22, 2017.

We will still accept your 2000 tax return. Filing your return may reduce the amount due.

Summary	
Your tax liability (deficiency)	$5,980.00
Payments you made	-28.00
Failure-to-file penalty	1,339.20
Failure-to-pay penalty	606.64
Estimated tax penalty	267.33
Interest charges	808.92
Amount due	**$8,974.09**

IRS Collection Process: *Final Notice and Right to a Hearing*

- Three versions: Letter 11, Letter 1058 and CP-90
- Final Notice includes Form 12153
- Taxpayer has 30-days to request a hearing
- You **MUST** file the request
- If the 30-day window is missed, file for an equivalent hearing

Department of the Treasury
Internal Revenue Service
PO BOX 8208
PHILADELPHIA PA 19101-8208
Time Sensitive Information – Open Immediately

IRS Notice CP90

003212.540873.3401.13589 1 MB 0.622 697

[redacted]

03212

April 21, 2025

Notice of intent to seize your assets and your right to a hearing

You still have time to pay your balance of $3,994.49.

What you need to do now

Pay your balance of $3,994.49 now at IRS.gov/payments or scan the QR code to the right of this notice. If you can't pay online, you can mail us your payment using the stub at the end of this notice.

- If you can't pay the full amount due, pay as much as you can now and make arrangements to pay your balance over time. Visit IRS.gov/paymentplans to apply for a payment plan.

You can appeal the proposed seizure (levy) of your assets by requesting a Collection Due Process (CDP) hearing by May 21, 2025. See the "Your appeal rights" section of this notice for information about requesting a hearing.

Form 12153

Form **12153**
(July 2022)

Department of the Treasury - Internal Revenue Service

Request for a Collection Due Process or Equivalent Hearing

Use this form to request a Collection Due Process (CDP) or Equivalent Hearing (EH) with the IRS Independent Office of Appeals (Appeals) if you have received a letter offering an appeal under IRC 6320/6330 (CDP notice).

Complete this form and send it to the address for requesting a hearing (not the payment address) shown on your CDP notice. Include a copy of your CDP notice to ensure proper handling of your request. For further information on these hearings, please see the instructions for this form.

Call the phone number on the CDP notice or 1-800-829-1040 if you are not sure about the correct address or if you want to fax your hearing request.

IRS Use Only

Si desea ver el formulario y las instrucciones en español, visite http://www.irs.gov/pub/irs-pdf/f12153sp.pdf.

1. Basis for hearing request *(both boxes can be checked if you have received lien and levy notices)*

☐ Filed Notice of Federal Tax Lien ☐ Notice of Proposed or Actual Levy

2. Equivalent Hearing *(see the instructions for more information on Equivalent Hearings)*

☐ If my request does not meet the requirements for a timely CDP hearing, I would like a hearing that is equivalent to a CDP hearing

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Collection Alternatives: After Billing

- Uncollectible Status
- Installment Agreements
- Offers-in-Compromise
- Bankruptcy

Takeaways

- Deadlines are real
- You must file in a way that can be tracked
- BEWARE: Certified Mail seems to vanish 50% of the time

Questions

Christina Walker: cwalker@divinefinancialservicesllc.com

Beverly Winstead: beverly@irshelpattorneys.com

Amanda Evans: aevans@gs-lawfirm.com

Final Thoughts

- Thank you for joining us
- Online audience, look for a link to come tomorrow to claim your certificate
- EAs – this is where you will input your PTIN number
- Issues? Contact us at team@taxrepllc.com

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