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Welcome to Edition 2 of The Newsletter from Scott H. Novak, Attorney at Law. The Newsletter is designed to bring timely and interesting topics to accountants and attorneys. Comments and suggestions are always welcome. Feel free to call or write at any time.

**It's Coming, Part I.** Sometime this spring, the IRS will begin to use four outside collection agencies to chase after "inactive tax receivables." Initially, about 380,000 accounts will be turned over to Pioneer Credit Recovery (who many of you know from NJ collections), Conserve, Performant and CBE Group. The first two are based in New York, the latter two in California and Iowa. Under the arrangement that each company has with the IRS, the companies have a financial incentive to collect as much money as possible. Each company keeps 25% of what is collected, the IRS gets 25% and the Treasury gets 50%. The IRS has not had success with outside collectors previously and Congress forced their hand by tucking the provision that requires the usage of collection firms into the Fixing America's Surface Transportation Act (FAST), passed in December of 2015. The accounts that are being turned over appear to be mostly those of lower income taxpayers. The collection companies are not required to tell the tax debtors of IRS programs that may help them, such as uncollectible, installment agreements and offer in compromise. The IRS is required to notify taxpayers by mail that their account is being turned over to a collection company. The collection company is similarly required to send a letter stating that it intends to try and collect the tax debt. We will have to wait to see how effective the program is, especially in light of the criminal phone scams that are proliferating.

**It's Coming, Part II.** Also as part of FAST, comes IRC §7345, which requires the IRS to provide information to the U.S. State Department about people who owe "seriously delinquent tax debt." Then the State Department can deny, revoke, or limit the ability of passport holders who are tax delinquent to use their passports. Who is an individual with a seriously delinquent tax debt? A person that owes the IRS more than \$50,000 with a lien filed (and all administrative remedies for lien relief have lapsed or been denied) or levy

issued. This will not apply to taxpayers who have established an installment agreement, among other things. Starting in March, the IRS will begin mailing Letter 508C, Notice of certification of your seriously delinquent federal tax debt to the State Department. At that time, the IRS will also send the certification to the State Department. Can a taxpayer simply pay their debt down to below \$50,000 to get passport restrictions lifted? It appears that the answer is no – the taxpayer will have to take active steps to resolve their tax matter. If you have clients who are concerned about this, now is the time to make things right with the IRS.

**IRS Fast-Track Mediation-Collection (FTMC) Program.** There's a new Revenue Procedure out that might prove to be helpful in your practice if you deal with the IRS on behalf of clients. Rev. Proc. 2016-57, 2016-49 IRB 786 only applies to certain offer in compromise (OIC) and certain trust fund recovery penalty disputes. Under the Rev Proc, either the taxpayer or IRS Collections can request FTMC. The mediator will be an IRS employee from the Office of Appeals. Why is this such an attractive option for a practitioner and the taxpayer? If you deal with the IRS, you are aware that the resolution of many matters can take a long time. During this time, liens may be hanging over your client's head and there can be great uncertainty, which often leads to stress and anxiety. In addition, the penalties and interest on, for example, a trust fund recovery penalty can become quite substantial over the course of time that it takes to resolve such a matter in the usual way. FTMC can get the client's matter in front of an Appeals officer early in the process to try and head off the additional penalties and interest, saving the client money and possibly much stress and anxiety. A request for participation in FTMC should be initiated after an issue has been fully developed and before Collection has made a final determination regarding the issue. There is no requirement that either the taxpayer or Collections participate in FTMC. Either one may initiate a request to participate in FTMC, but Appeals will not accept an issue for FTMC unless both parties agree to participate in the process, as evidenced by a Form 13369, Agreement to Mediate, signed by both parties. A taxpayer representative may sign the Form 13369, provided a Form 2848 is attached to the form.

**IRS National Standards.** If you work with taxpayers who owe money to the IRS, you may know that the IRS publishes national standards for several items that are part of IRS financial statements, namely, the 433 series of documents. One set of standards limits the amount that may be claimed for food, housekeeping supplies, apparel and services, personal care products and services and miscellaneous. Another is out of pocket health care costs. But did you know that when applying for an offer in compromise, the IRS has the discretion to consider your costs if they are higher, provided that you can substantiate the costs? IRC §7122(d)(2)(B) is the go-to section.