

## IRM PROCEDURAL UPDATE

**DATE: 07/12/2019**

**NUMBER: sbse-05-0719-0869**

**SUBJECT: Passport Changes - Expedited Decertification & Revocation**

**AFFECTED IRM(s)/SUBSECTION(s): 5.1.12**

### **IRM 5.1.12.27.1, *Passport Certification Overview*, added information on revocation requests and issuance of new Letter 6152 to paragraph (3)**

1. IRC § 7345 requires the IRS to notify the U.S. Department of State that an individual is certified as owing a seriously delinquent tax debt. Upon certification, the U.S. Department of State is responsible for taking action to deny, revoke, or limit a passport.
2. IRS Commissioner has delegated the authority for certification or reversal of a certification to the IRS Commissioner, SBSE.
3. When this notification of certification is received from the IRS, the U.S. Department of State is generally required to deny the certified individual a U.S. passport (or renewal of a U.S. passport) or may revoke or limit any U.S. passport previously issued to that individual. The U.S. Department of State has the sole authority for denying, revoking, or limiting a U.S. passport of a certified individual. The IRS may request the U.S. Department of State to consider revoking a U.S. passport of a certified individual. Prior to such request, the IRS will issue Letter 6152, *Notice of Intent to Request U.S. Department of State Revoke Your Passport*, advising the taxpayer of our intent, and allowing the taxpayer 30 days (90 days if outside the U.S.) to contact the IRS to resolve their tax liability. IRS will consider asking the U.S. Department of State to revoke a passport under the following circumstances:
  - To protect the integrity of the legislation (e.g., such as when a taxpayer obtains a decertification based on a promise to pay, and fails to act as agreed).
  - If revocation is needed to encourage payment of the tax by incentivizing taxpayers with offshore activities or interests to resolve their liabilities.
  - In other instances where the facts and circumstances indicate that revocation would facilitate payment of tax.

**NOTE: Letter 6152 can only be issued by Headquarters Collection.** IRS will not issue Letter 6152 in the 30-day period following issuance of the last CP508C. The supervisor of the employee making the recommendation will approve the revocation recommendation in writing prior to issuance of Letter 6152.

**NOTE:** Passport certification is separate and distinct from obtaining passport information from the United States Passport Office in connection with an official investigation. See IRM 5.1.18.13, *United States Passport Office*, for procedures on how to request a passport check.

**REMINDER:** If after spending a reasonable amount of time researching the issue without success, consulting with your manager, an On the Job Instructor (OJI), or a senior revenue officer, follow the procedures to post questions to the Ask Collection Policy web site at <http://mysbse.web.irs.gov/Collection/askcollectionpolicy/default.aspx> to seek technical clarification of procedures related to passport legislation or to raise issues that need clarification in future IRM updates. This site does not replace the need to work through management channels to resolve specific taxpayer cases. Questions posted to this site should not contain personally identifiable information.

**IRM 5.1.12.27.8, *Reversal of Certification*, moved paragraph (8) and paragraph (9) to new section IRM 5.1.12.27.8.1, *Expedited Decertification*, as paragraph (2) and paragraph (3).**

1. The IRS will reverse the certification of seriously delinquent tax debt and notify the State Department within 30 days if the previously certified tax debt:
  - a. Is fully satisfied (Status 12),
  - b. Becomes legally unenforceable,
  - c. Ceases to be seriously delinquent tax debt,

**NOTE:** A previously certified tax debt ceases to be seriously delinquent tax debt when a statutory exclusion is met. See IRM 5.1.12.27.3, *Statutory Exclusions from Certification*.

**EXCEPTION:** Certification will **not** be reversed because the taxpayer pays the debt to below the threshold amount indexed for inflation effective at the time of certification. **All** certified modules must be fully satisfied (e.g., Status 12), become legally unenforceable, or meet an exclusion for certification to be reversed.

2. If the certification is found to be erroneous, the IRS will notify the State Department as soon as practicable. The IRS will also notify the taxpayer once the certification is reversed. Examples of erroneous certification are as follows:
  - a. A taxpayer is in a Combat Zone, but the service did not receive notification. The account was erroneously certified because no -C Freeze was present.
  - b. The taxpayer has an approved installment agreement being paid in a timely manner but the TC 971 AC 063 was not input in IDRS on the taxpayer's account.

- c. The taxpayer has an innocent spouse relief claim under IRC 6015, and the account was not properly coded.
3. The Tax Court or a District Court of the United States may order the IRS to reverse the certification. See IRM 5.1.12.27.9, *Appeals Process and Judicial Review of Certification*.

**NOTE:** When decertification is required as a result of litigation, the revenue officer should work with Counsel to provide notification to the Passport Analyst as described in IRM 5.1.12.27.9, *Appeals Process and Judicial Review of Certification*.

4. The IRS has the discretion to request a decertification for other reasons. The IRS will decertify a previously certified tax debt that ceases to be seriously delinquent tax debt when a discretionary exclusion is met. See IRM 5.1.12.27.4, *Discretionary Exclusions from Certification*. Examples of discretionary reversal include:
  - a. A certified taxpayer who later files bankruptcy (unreversed TC 520 cc 60-67, 81, 83-89).
  - b. A certified taxpayer entering a Combat Zone.
  - c. A certified taxpayer who is later determined to be currently not collectible due to hardship (unreversed TC 530 cc 24-32).
  - d. The Department of State requests the IRS to decertify.
  - e. An adjustment to the account that reduces the original certification amount below the threshold for certification in IRM 5.1.12.27.2. The original return has been filed and processed, or the adjustment has posted.

**EXAMPLE:** IRS assesses taxpayer's liability of \$54,000, of which \$9,000 is attributable to a penalty. The taxpayer's seriously delinquent tax debt is certified. The taxpayer requests penalty abatement on the basis of reasonable cause. IRS finds the taxpayer had reasonable cause and abates the penalty, lowering the taxpayer's total liability to \$45,000. Since the liability is reduced below the threshold for certification in IRM 5.1.12.27.2, the taxpayer is eligible for decertification.

**CAUTION:** Not all penalty abatements will result in decertification. For example, a penalty abatement of a certified module due to an administrative waiver under the First Time Abate criteria in IRM 20.1.1.3.3.2.1 will **not** result in decertification, even if the adjusted total liability is less than the threshold amount indexed for inflation.

**EXAMPLE:** The taxpayer has a liability of \$66,000 for tax period 30/201512 due to an SFR assessment. The taxpayer is certified as a seriously delinquent tax debt and receives a Notice CP 508C. The taxpayer is in the process of renewing their U.S. Passport with the Department of State. The taxpayer files a return for tax period 30/201512 which reduces the tax debt to \$30,000. Once the

taxpayer's return for 30/201512 is processed and posted on IDRS, the taxpayer will be eligible for decertification.

- f. The taxpayer claims to have paid their certified debt on a module based on their Notice CP 508C and the certified module has an additional assessment posted subsequent to the issuance of the notice. The revenue officer will request assistance through their management chain. This can be done by sending an email asking for assistance from their manager and including the results of their research. If the issue cannot be resolved, forward the email message to the Passport Analyst with the subject heading "Review of Subsequent Assessment" at \*SBSE Passport Support.
5. A taxpayer's account will remain certified as seriously delinquent tax debt when:
    - a. A taxpayer requests a CDP lien or levy hearing for tax periods which are not the basis of certification of a seriously delinquent tax debt.

**EXAMPLE:** The taxpayer is already certified as owing a seriously delinquent tax debt. The revenue officer issues L-1058 on an additional tax period to provide notice of CDP levy rights. The taxpayer requests a timely CDP levy hearing. The certification of seriously delinquent tax debt is not reversed for the pending CDP levy hearing on this additional tax period.

- b. A taxpayer requests Innocent Spouse relief for tax periods which are not the basis of certification of a seriously delinquent tax debt.
  - c. A taxpayer requests a CDP Lien hearing for a subsequent NFTL filing on the modules that are the basis of certification of a seriously delinquent tax debt.
  - d. A taxpayer requests a CDP Lien hearing when the certification was based on a levy.
6. On a joint module, where both the primary and secondary taxpayers are identified as decertified, a separate TC 972 AC 641 will be input to decertify both spouses.
  7. If the taxpayer's explanation of why their account should be decertified meets decertification criteria, the revenue officer should verify the explanation as appropriate and then utilize existing procedures to update the account with any missing freeze codes or transaction codes that would result in systemically decertifying the taxpayer's account. If the revenue officer is unable to resolve the issue as to why the modules were not decertified, the revenue officer will request assistance through their management chain. This can be done by sending an email asking for assistance from their manager and including the results of their research. If the issue cannot be resolved, forward the email to the Passport Analyst with the subject heading "Review of Certification" at \*SBSE Passport Support.

**IRM 5.1.12.27.8.1, *Expedited Decertification*, added new section moved from IRM 5.1.12.27.8, *Reversal of Certification*, paragraph (8) and paragraph (9). Added introduction to Expedited Decertification and clarified existing guidance for processing expedite requests. Revised paragraph (2) to include proof of travel in b) and denial letter in c).**

1. The IRS will generally reverse the certification of seriously delinquent tax debt and notify the U.S. Department of State within 30 days when the taxpayer meets a condition listed in IRM 5.1.12.27.8, *Reversal of Certification*. A certified taxpayer may request Expedited Decertification if they identify an imminent need for a passport. Expedited Decertification will **generally** shorten the 30-day processing time by 14 to 21 days.
2. Request expedited decertification when you verify that **all three** of the following conditions exist:

- a. The certified taxpayer is eligible for decertification as described in IRM 5.1.12.27.8, *Reversal of Certification*;

**NOTE:** Confirm taxpayer eligibility in IDRS. For example, if the taxpayer entered into an installment agreement, TC 971 AC 063 should appear in IDRS.

- b. The taxpayer states their foreign travel is scheduled within 45 days or less and can provide proof of travel, **or** the taxpayer lives outside the United States;

**NOTE:** Proof of travel can be a flight itinerary, hotel reservation, cruise ticket, international car insurance, or other document showing location and date of travel or time-sensitive need for a passport. If the taxpayer resides outside of the United States, determine the location where the taxpayer applied for and was denied a passport (city, country).

- c. The taxpayer has a pending application for a passport or renewal, has received notification that their passport application was denied or revoked by the U.S. Department of State, **and** provides a copy of the passport denial letter issued by the U.S. Department of State. If a taxpayer whose passport has been revoked needs expedited decertification, the taxpayer must have applied for a new passport and received the application denial notification for the U.S. Department of State described above.

**NOTE:** The letter issued by the U.S. Department of State that advised the taxpayer their passport application was denied or revoked *is not referring to the CP508-C, which is a notice mailed by the IRS.*

**EXCEPTION:** Taxpayers residing outside of the United States may have an urgent need for a passport *without* having imminent travel plans. When a taxpayer residing outside of the United States meets

conditions in IRM 5.1.12.27.3, *Statutory Certification Exclusions*, or IRM 5.1.12.27.4, *Discretionary Certification Exclusions*, and self-identifies as having an urgent need for decertification, request expedited decertification.

3. Given the urgency of the situations, request expedited decertification as soon as you determine the taxpayer meets all criteria and you have verified the required information:

- Complete Part 1 (page 1) of Form 14794, *Expedited Passport Decertification*, and secure managerial approval.

**REMINDER:** Complete all items on the form including the check boxes to indicate proof of travel and U.S. Department of State denial letter have been included with the request.

**REMINDER:** Input the date of the Exclusion Reason posted on IDRS in the box next to the exclusion reason. Include the dollar amounts where requested.

**REMINDER:** Input the manager's name, telephone number, and secure managerial approval/signature on the bottom of Part 1.

**CAUTION: Do not sign Part 2 (page 2) of Form 14794.**

- Save the file. Select File, Save as, and include the taxpayer's name (or Name Control), "Expedite," and Date of Request (MMDDYYYY).

**EXAMPLE:** "SMIT Expedite 03312019," or "John Doe Expedite 03312019."

- Forward the form and required attachments to \*SBSE Passport Group, with "Expedite" and the travel date (MMDDYYYY) in the subject heading.

**EXAMPLE:** "Expedite - travel 04152019."

**REMINDER:** The taxpayer **must** provide their passport application number or the location of the application request if the taxpayer resides outside of the United States. The passport application number will be on the U.S. Department of State denial letter. This information must be entered when completing Form 14794, *Expedited Passport Decertification*, or it is not processable.

- If both spouses on a joint liability require expedite decertification, then complete a separate Form 14794 for each spouse.
- Upon securing necessary approval for passport decertification, the Passport Analyst will transmit the Form 14794, *Expedited Passport Decertification*, directly to the U.S. Department of State for action. You

will receive a confirmation email from the \*SBSE Passport Group. Document the case history when the confirmation email is received, including the received date and email information.

**CAUTION:** Explain that the decertification will generally occur systemically and the Department of State will be notified within 30 days. If the taxpayer indicates a problem with planned travel that meets the criteria in paragraph (2) above, then follow expedited decertification procedures.

4. If taxpayers do not meet all of the above criteria, they **do not** qualify for expedited decertification. Advise them that decertification will occur systemically.

**EXAMPLE:** If taxpayers residing in the United States plan foreign travel **more than** 45 days in the future, they **do not** qualify for expedited decertification procedures.