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## MEMORANDUM FOR TAXPAYER ADVOCATE SERVICE EMPLOYEES

FROM: /s/ Bridget Roberts  
Acting National Taxpayer Advocate

SUBJECT: Passport Advocacy Changes Caused by the IRS  
Commissioner's Final Decision

The purpose of this memorandum is to update advocacy guidance to TAS employees concerning taxpayers subject to the Passport Certification Program.

### **Background**

The National Taxpayer Advocate has long [advocated](#) to exclude certain taxpayers with TAS cases from certification of a seriously delinquent tax debt resulting in passport consequences (passport certification). As the IRS Commissioner considered this issue, he made a temporary decision to automatically protect all taxpayers working with TAS from certification. The IRS Commissioner has now made a final determination on this issue. Taxpayers working with TAS will no longer be automatically protected from certification. Instead, TAS will work with the IRS to identify and resolve the seriously delinquent tax debts of these taxpayers. Disagreements about how to address individual cases or whether to protect a specific taxpayer from certification who has already taken significant steps to resolve the debt will still be resolved with Taxpayer Assistance Orders (TAOs).

### **Changes to TAS Advocacy Guidance**

This memorandum supersedes and replaces the temporary guidance in TAS-13-0819-0014, *Passport Advocacy Changes Caused by the IRS Commissioner's Temporary Decision*. Although TAS continues to use the TAS IDRS Marker (TC 971 AC 154 with "TAS" in the MISC field) to identify open cases, this marker will no longer automatically exclude or decertify the taxpayer's seriously delinquent

debt. It will continue to automatically exclude taxpayers from the private debt collection program.

This memorandum changes [IRM 13.1.24.8](#), *Advocating for Taxpayers Facing Passport Revocation/Denial*. TAS will now use Operation Assistance Requests (OARs) and not TAOs when advocating in most cases involving passport certification.

- [IRM 13.1.24.8.1](#), *Background*, is modified as follows:
  - Remove paragraphs (2) and (3).
- [IRM 13.1.24.8.4](#), *Advocating for Uncertified Taxpayers with Seriously Delinquent Tax Debt*, is superseded and replaced by the following:
  - (1) If a taxpayer has an aggregate debt over \$50,000 (indexed annually for inflation, \$52,000 in 2019), check for the existence of the unreversed TC 971 AC 641 on ENMOD. If no such TC is present, determine if the debt is eligible now for passport certification (a levy or a notice of lien issued, Collection Due Process (CDP) rights exhausted or lapsed, and the debt is not eligible for any statutory or discretionary exclusions). Also determine if the debt will soon be eligible for passport certification (e.g., federal disaster area exclusion about to elapse).
  - (2) If the taxpayer is certified, follow the procedure in [IRM 13.1.24.8.5](#), *Advocating When the IRS Certified A Taxpayer's Debt*, as modified by this memorandum.
  - (3) If the taxpayer is uncertified, but eligible or soon will be eligible for certification, explain the risk to the taxpayer. Review the information in [IRM 13.1.24.8.3](#) and ask the taxpayer questions per [IRM 13.1.24.8.5](#) to determine the impact of certification to the taxpayer. If the taxpayer has imminent foreign travel plans, lives abroad, or has another compelling need for a passport, immediately seek the advice of a Revenue Officer Technical Advisor (ROTA).
  - (4) The ROTA will verify the taxpayer is eligible or will soon be eligible for certification and no statutory or discretionary exclusions will apply. If possible, the ROTA will also determine how much time the taxpayer will have before certification.
  - (5) Elevate the case to your Local Taxpayer Advocate (LTA) if the case meets **all** the following criteria. The taxpayer has:
    - Imminent foreign travel plans, lives abroad, or has another compelling need for the passport;
    - A significant risk of being certified before TAS will be able to help resolve the taxpayer's debt; and
    - Taken demonstrable recent steps to get into compliance with the IRS that nevertheless fall short of the statutory and discretionary exclusions.



- (2) Analyze the situation and discuss the options with the taxpayer. Once you have decided on an option, gather the necessary documentation to advocate for the selected relief. If the case is complex and may take time to fully resolve and the taxpayer has a need for a passport, discuss with the taxpayer the possibility of entering into an Installment Agreement or Partial Pay Installment Agreement while working on a longer-term resolution, to have the taxpayer decertified. Ensure your TAMIS histories show the reason the advocacy option was selected and your efforts to secure the necessary documentation.
- (3) If the taxpayer has planned foreign travel within 45 days, lives abroad, or has another compelling reason for the passport, use expedited OARs with short requested completion dates to resolve the debt. If agreement is not reached on your OAR, immediately elevate the situation to your LTA for issuance of a TAO.
- (4) If the taxpayer's need for foreign travel is related to an emergency or humanitarian situation, [IRM 13.1.24.8.6](#) explains the discretion the Department of State can exercise while the taxpayer remains certified.
- [IRM 13.1.24.8.5.3](#), *Decertify the Debt with the Department of State*, is superseded and replaced with the following:
  - (1) Once the taxpayer meets a criterion for decertification under [IRM 5.19.1.5.19.9](#), *Reversal of Certification*, review [IRM 13.1.24.8.8](#) to determine if the account will require manual decertification. If so, send an OAR to the SB/SE Passport Office seeking manual decertification.
  - (2) If the taxpayer has an imminent need for a passport as defined in [IRM 5.19.1.5.19.9.1](#), *Expedited Decertification*, gather the supporting documentation described. If the IRS function that resolved the debt did not complete and sign page one of Form 14794, *Expedited Passport Decertification*, prepare the form for LTA signature on page one.
  - (3) Send an expedited OAR to \*SBSE Passport Group mailbox, requesting that the taxpayer be decertified within one business day. Include the signed Form 14794 and the required documentation. If the OAR is not complied with timely, or if you disagree with the response, immediately elevate the case to your LTA for issuance of a TAO.
- [IRM 13.1.24.8.5.4](#), *TAO Appeals and Elevation*, is removed.

#### **Effect on other documents**

This memorandum supersedes and replaces the temporary guidance in TAS-13-0819-0014, *Passport Advocacy Changes Caused by the IRS Commissioner's*

*Temporary Decision.* TAS will incorporate this guidance into the next revision of [IRM 13.1.24](#), *Advocating for Case Resolution*.

**Contact**

If you have any questions, please contact Kelly McConnell, Acting Deputy Executive Director of Case Advocacy, Technical Support, at (208) 363-8845.

cc: [www.irs.gov](http://www.irs.gov)