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**TaxForum** | 2017

Advocating for Clients whose  
Debts were Assigned by the  
IRS to a Private Collection  
Agency



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# Learning Objectives

By the end of this training you will be able to:

- Understand and explain the PDC program to your clients;
- Recognize when your client's tax debt has been assigned to a PCA; and
- Protect the rights under the Taxpayer Bill of Rights and other applicable law, of your clients whose debts are assigned to PCAs.



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# Acronyms

- PCA: Private Collection Agency
- FPLP: Federal Payment Levy Program
- SSA: Social Security Retirement
- SSDI: Social Security Disability Income
- SSI: Supplemental Security Income
- RRB: Railroad Retirement Benefits
- CSED: Collection Statute Expiration Date
- TAN: Taxpayer Authentication Number



# Background

- The IRS has had the authority to outsource tax debts since 2004, when IRC § 6306 was enacted
- 2015 FAST Act amended IRC § 6306
- **Requires** IRS to enter into tax collection contracts with PCAs for “inactive tax receivables”



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# PCAs with IRS Contracts

- IRS has awarded contracts to four PCAs: ConServe (NY), Pioneer (NY), Performant (CA), CBE Group (IA)
- Collections began in April 2017



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# IRC § 6306(c)(2)(A) “Inactive Tax Receivable”

1. “Tax receivables that have been removed from the IRS’s active inventory due to a lack of resources or an inability to find the taxpayer; or



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## IRC § 6306(c)(2)(A)

### “Inactive Tax Receivable” cont’d

2. For which more than one-third of the applicable limitation period has passed and no IRS employee has been assigned to collect the receivable; **or**



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## IRC § 6306(c)(2)(A)

“Inactive

Tax Receivable” cont’d

3. Tax receivables that have been assigned for collection, but more than 365 days have passed without interaction with the taxpayer or a third party for purposes of furthering collection of the receivable.”



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# IRC § 6306(c)(2)(B) “Tax Receivable”

“any outstanding assessment which the Internal Revenue Service includes in **potentially collectible inventory.**”



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# Potentially Collectible Inventory

- There is no statutory definition of “*potentially collectible inventory*”.
- The term does not include accounts with the Currently Not Collectible (CNC) hardship designation. Thus, these debts will not be assigned to PCAs.



## IRC § 6306(d) Exclusions from Assignment to PCAs

- Pending or active offer in compromise or installment agreement;
- Innocent spouse case;
- Taxpayer deceased, under 18, in designated combat zone, victim of ID theft;



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# IRC § 6306(d) Exclusions from Assignment to PCAs, cont'd

- Currently under examination, litigation, criminal investigation or levy; or
- Is currently subject to a proper exercise of a right to appeal under this title.
- Relief for taxpayers in presidentially declared disaster areas, pursuant to IRS procedures.



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# Additional Statutory or Contractual Requirements Include

- Fair Debt Collection Practices Act, 15 USC 1692c
- IRC § 6103 pertaining to disclosure and related provisions
- IRC § 7803(a)(3) requiring IRS Comm'r to ensure IRS employees are familiar with and act in accordance with Taxpayer Bill of Rights.



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# Weekly Case Delivery Schedule to PCAs

Week of	Total	A	B	C	D
April 10-May 11	400	100	100	100	100
May 8-June 26	4,000	1,000	1,000	1,000	1,000
July 3-Sept.	8,000	2,000	2,000	2,000	2,000



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# Accounts of Low Income Taxpayers Are Assigned to PCAs

Accounts that do not bear the CNC hardship designation are not exempt from assignment to PCAs even though the taxpayer may be in economic hardship.



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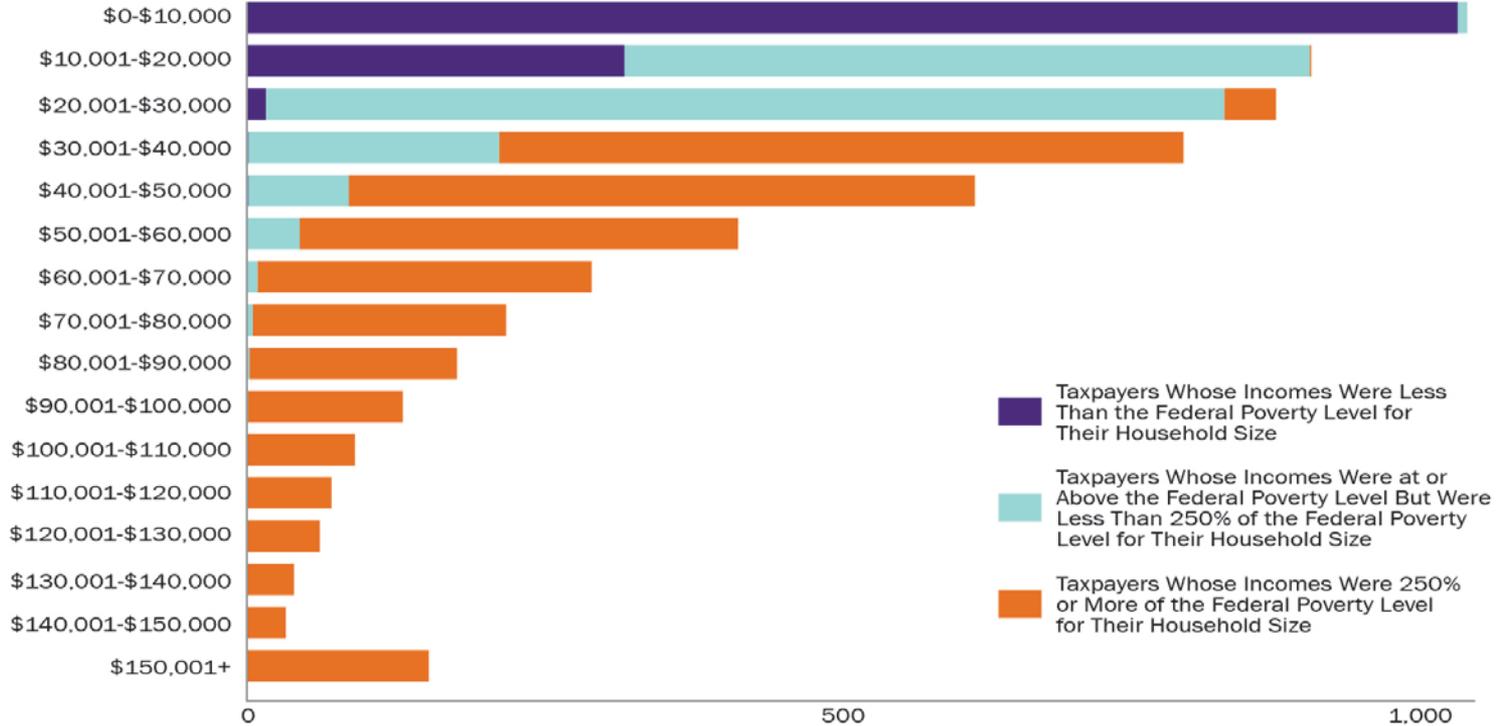
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# Data About Taxpayers Whose Debts were Assigned as of May 17, 2017

- The IRS had assigned to PCAs the debts of approximately 9,600 taxpayers, approximately 5,900 of whom filed a recent return. The returns show:
- Median annual income of \$31,689;
- More than half have incomes below 250 percent of the federal poverty level; and
- More than a fifth have incomes below the federal poverty level.



### Income Distribution of Taxpayers Whose Debts Were Assigned to PCAs Compared to the Federal Poverty Level, According to Their Last Filed Returns (Tax Year 2014 or Later)





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# Accounts Excluded From FPLP Are Assigned to PCAs

- SSA and RRB payments are generally not subject to FPLP levies when the recipient's income is less than 250 percent of the federal poverty level.
- IRS has agreed to exclude debts of SSDI recipients from assignment to PCAs.



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# Recent Assessments May be Assigned to PCAs

- IRC § 6306(a)
- IRS issues Notice CP 14, but other collection notices suppressed, such as
  - CP 501, IMF 1st Balance Due Notice,
  - CP 503, IMF 2nd Balance Due, and
  - CP 504, Final Balance Due Notice.



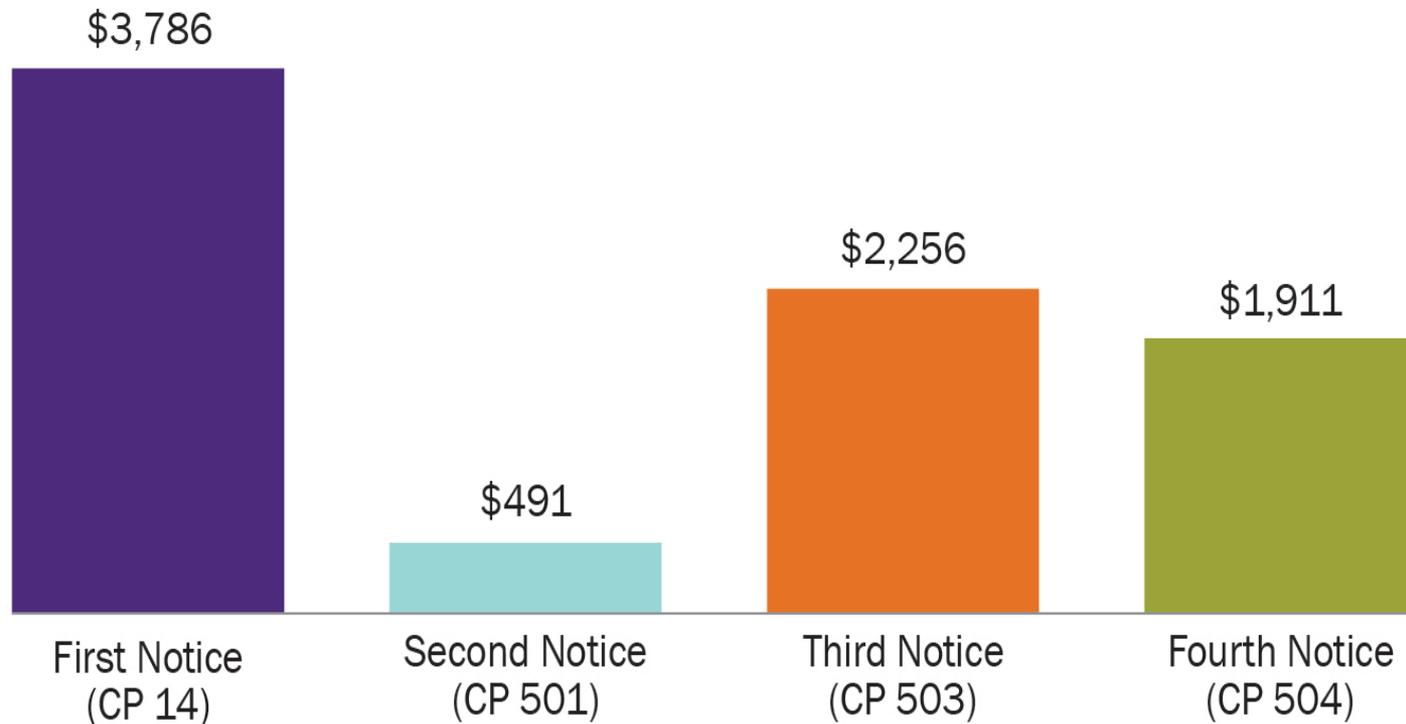
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## Amounts Collected From Taxpayers Whose Debts Are Not Assigned to PCAs and Who Are Issued Four IRS Collection Notices (in Millions of Dollars)





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# “Qualified Tax Collection Contract” IRC § 6306(b)

- (A) to locate and contact the taxpayer;
- (B) to request full payment and, if such request cannot be met, to offer the taxpayer an installment agreement not to exceed 5 years; and
- (C) to obtain financial information specified by the Secretary with respect to such taxpayer.



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# IRS Guidance

- PCA Policy and Procedures Guide
- IRM 5.19.1.4.21



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# National Taxpayer Advocate Training Video

National Taxpayer Advocate training video for  
PCA employees on the Taxpayer Bill of Rights

[https://www.irsvideos.gov/Presentation/?post\\_id=1669t](https://www.irsvideos.gov/Presentation/?post_id=1669t)



# Installment Agreements (IA) of more than 5 years duration

- PCAs refer debts back to IRS where a taxpayer cannot pay within 5 years but can pay in 6 or 7 years (and within the CSED).
- PCA retains these accounts in inventory.
- If the IRS approves the 6-7 year IA, the PCA monitors the IA and receives commissions on IA payments.



# Tax Transcripts

Transaction Code	Action Code	Description
971	054	Assigned to PCA
971	063	IA Established
971	163	No longer in IA



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# Toll-Free PCA Phone Numbers

CBE: 800-910-5837

Pioneer: 800-448-3531

ConServe: 844-853-4875

Performant: 844-807-9367



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## PCAs May Solicit a “Voluntary Payment”

If a taxpayer cannot full-pay in installments within 6-7 years or within the CSED, PCA may secure one “voluntary payment” and must inform the taxpayer that collection alternatives may be available from IRS.



# PCAs Do Not Receive Payments from Taxpayers

- The PCA may never ask the taxpayer to mail a payment or cash to the PCA location or make a check payable to the PCA.
- The PCA will encourage the taxpayer to make payments electronically via [irs.gov](https://www.irs.gov).
- If unable to pay electronically, PCA will instruct taxpayer to mail payment to the IRS.



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# PCAs Cannot Take Collection Actions

PCA employees must **not** suggest or imply that the employee may be able to initiate enforced tax collection activity against a taxpayer or third-party either through the PCA or by recommending such action to the IRS.



# PCAs' Responsibilities to Taxpayers

PCA employees **must**:

- Observe taxpayer rights and protections under the Internal Revenue Code and the Fair Debt Collection Practices Act (FDCPA); and
- Follow all the laws, regulations and rules that apply to the IRS.



# IRS Notice CP 40



Department of the Treasury  
Internal Revenue Service  
Kansas City, MO 64999-0010

Notice	CP40
Notice date	September 26, 2016
Taxpayer ID number	XXX-XX-NNNN
Tax form	1040
Tax year	2015
Taxpayer authentication number	0111111111
To contact us	1-844-875-3420
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**We assigned your overdue tax account to a private collection agency**

Current law requires us to contract with qualified private collection agencies to assist in

**What happens next**



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# Authenticating a Taxpayer's Identity using the TAN

- The IRS's letter informing the taxpayer the account was assigned to a PCA contains a 10-digit TAN.
- The PCA initial letter includes the TAN that was in the IRS's initial contact letter.
- The taxpayer must provide his or her full name, address, and date of birth.
- Taxpayer may then complete authentication by providing the first five digits of the TAN. The PCA provides the last five digits.



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# Authenticating Without Using the TAN

- If taxpayer cannot produce the TAN, PCA can re-send the initial letter.
- If taxpayer has provided the correct full name and address and date of birth, PCA can offer to authenticate using Social Security Number if taxpayer agrees.
- The conversation cannot proceed without authentication.



# Authenticating with Centralized Authorization File (CAF)

PCAs will negotiate with POAs (and not contact the taxpayer directly) for these Form 2848 designations:

- a.** Attorney
- b.** Certified Public Accountant
- c.** Enrolled Agent
- f.** Family member
- k.** Student Attorney or Student CPA

These designated representatives authenticate with CAF number and address.



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# Complaints

- Complaints to PCA: PCA will provide taxpayer with TIGTA Office of Investigations contact information.
- PCA will notify TIGTA of complaints it receives and record the complaint in a log that the IRS can inspect.
- PCA provides the complaint log to the IRS monthly.
- Complaints to IRS: taxpayer will be given TIGTA Office of Investigations contact information.



# No Referral Unit or Equivalent IRS Liaison with PCAs

- The IRS assigns and recalls cases directly to PCAs by means of electronic data exchanges.
- Taxpayers who call the IRS for issues such as account problems will be directed to work with the PCA and be provided TAS phone number.
- IRM 5.19.1.4.21.4.



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# Additional Concerns

- PCAs may not return to the IRS accounts of taxpayers in economic hardship;
- Cases the IRS recalls from PCAs will not be worked to completion.
- PCA practices are not always transparent



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# How to Prevent Further Contact from a PCA

*Excerpt, Fair Debt Collection Practices Act 15 USC §  
1692c(c)*

## **(c) Ceasing communication**

After notification in writing to cease further communication, the debt collector shall not communicate further, except--

- (1) to advise that further efforts are being terminated



# Consumer Financial Protection Bureau consumerfinance.gov **Sample Letters**

Excerpt:

Dear [Debt collector name],

I am responding to your contact about a debt you are attempting to collect. You contacted me by [**phone/mail**], on [**date**]. You identified the debt as [**any information they gave you about the debt**].

Please stop all communication with me and with this address about this debt.



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# How TAS Can Help

- PCA cases meet TAS case acceptance criteria
- Once TAS opens a case, the case will be recalled from PCA inventory
- Open TAS cases will not be assigned to PCAs



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# Systemic Advocacy Management System (SAMS)

- Available through [IRS.gov](https://www.irs.gov)
- Notifies TAS of issues:
  - Affecting multiple taxpayers;
  - Involving IRS systems, policies, and procedures;
  - Involving protecting taxpayer rights, reducing burden, ensuring fair treatment, or providing essential taxpayer services.



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# Contact TAS

- [IRS.gov/Advocate](https://www.irs.gov/Advocate)
- [YouTube.com/tasnta](https://www.YouTube.com/tasnta)
- [Facebook.com/YourVoiceAtIRS](https://www.Facebook.com/YourVoiceAtIRS)
- [Twitter.com/YourVoiceatIRS](https://www.Twitter.com/YourVoiceatIRS)
- Call 1-877-777-4778
- Form 911, Request for Taxpayer Advocate Service Assistance
- LITC – [www.taxpayeradvocate.irs.gov/litcmap](https://www.taxpayeradvocate.irs.gov/litcmap)



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# Contact TAS

For questions about this presentation:

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