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How Overdue Taxes Can Jeopardize Passports

In a fresh 2018 [Notice 2018-01](#), the IRS has provided new details about tax debts that can impact your ability to travel. The IRS is required by law to notify the State Department once your tax debt is certified as "seriously delinquent." After that, the State Department will generally deny issuing or renewing a passport. The State Department can even revoke a passport already in use. The law was enacted back in 2015, but the IRS and State Department are only now implementing the rules.



Notably, the rules are not limited to criminal tax cases, or even where the IRS thinks you are trying to escape a tax debt. The basics are in [Section 7345](#) of the tax code, and the IRS has [details on its website](#). The IRS first notifies the State Department, then the State Department generally will not

issue or renew your passport. However, this only applies to a seriously delinquent tax debt, more than \$50,000. Even so, that \$50,000 includes penalties and interest. A \$20,000 tax debt can grow to \$50,000 including penalties and interest.

The latest details from the IRS involve what you can do if you face this situation. The IRS says that taxpayers notified that certification of their seriously

delinquent tax debt has been transmitted to the State Department should consider: (1) paying the taxes in full; (2) entering into an installment agreement with the IRS; or (3) making an offer in compromise. The certification is serious. If a certified taxpayer applies for a passport, the State Department, in general, will provide the applicant with 90 days to resolve the tax delinquency before denying the passport application. If a taxpayer needs their passport to travel within those 90 days, the taxpayer must contact the IRS and resolve the matter within 45 days from the date of application, so that the IRS has adequate time to notify the State Department.

Can certifications be undone? Generally, the sole remedy for a taxpayer who believes that a certification is erroneous, or that the IRS incorrectly failed to reverse a certification (because the tax debt is fully satisfied or ceases to be seriously delinquent), is to file a civil action in court. The taxpayer cannot go to IRS Appeals to challenge the certification or the IRS decision not to reverse a certification. However, the taxpayer may contact the phone number in the IRS Notice CP508C to request reversal of the certification if the taxpayer believes that the certification is erroneous.

Procedure is important. Before a tax debt gets to this stage, the IRS usually sends multiple notices, so [you should respond](#), and keep protesting. If you receive an IRS Notice of Proposed Deficiency or Examination Report, prepare a protest before the deadline. Normally a protest will land you in the IRS Appeals Office, where you have another chance to resolve it. If you fail to protest, or you can't resolve your case at IRS Appeals, you probably will receive a Notice of Deficiency. Then, you have [90 days to respond](#), by filing in the U.S. Tax Court. A tax debt does not become final if you keep your tax dispute going.

If despite all this, you get a certification that your tax debt is "seriously delinquent," contact the phone number listed on the IRS Notice. One of the main ways to keep your passport would be striking a deal with the IRS. It is often not too difficult to get an installment agreement with the IRS to pay your tax debt over time. If you sign one, stick to its terms. Even if your debt is huge, the IRS doesn't call it "seriously delinquent" if you are paying the installments on time. There are many taxpayer protections when it comes to IRS collections. If you make a timely request for a [collection due process](#) hearing in connection with a levy to collect the debt, you might buy time to work out a deal with the IRS.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not legal advice.