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IRS Private Debt Collectors Are Now Legal: 10 Things You Should Know

If the IRS is bugging you about your unpaid taxes, what if it is a private debt collector *acting* for the IRS? That is now a reality, since President Obama has signed the 5-year infrastructure spending Bill. It added private IRS collectors as part of H.R. 22 – Fixing America's Surface Transportation Act, the "FAST Act." What does a private IRS have to do with highway funding, you might ask? The answer is money.

Congress wants more of it collected from taxpayers, especially what the IRS considers to be hard to collect tax bills. In fact, for some hard to collect bills, the law now *requires—rather than just permits*—the IRS to use private collectors. Many people think that having the IRS farm out collection work to private contractors is a bad idea. Last year, National Taxpayer Advocate Nina Olson advocated against it in this letter. She said the 2006-2009 program using private collectors didn't even raise revenue.

The IRS has gone in for private collectors twice over the last 18 years. And although those programs were not especially successful, Congress has gone back to it in a big way. Congress included it in the FAST Act, and the President signed it into law. Here are 10 things you should know

1. First, the private collector usually will contact the taxpayer by letter.

2. If the taxpayer's last known address is incorrect, the private collector searches for the correct address. Next, the private collector will telephone the taxpayer to request full payment.

3. If the taxpayer cannot pay in full right away, the private collector offers an installment deal for up to five years.

4. If the taxpayer is unable to pay even over five years, the collector asks for taxpayer financial information to see what sort of deal the taxpayer should get. There are controls on financial data, but there is considerable worry about having taxpayer data in private hands.

5. Private collectors cannot accept payments. ***Do not pay them directly!***

6. The Fair Debt Collection Practices Act applies to private collectors. This is the same law that applies to collectors in other circumstances.

7. There are many reports required under the law. Congress and the Treasury Department are trying to determine if private collection is efficient and how well it works.

8. In some cases, the IRS is actually *required* to use private collectors, where:

    - The tax bill is not being collected because of a lack of IRS resources or the IRS' inability to locate the taxpayer.

    - More than 1/3 of the statute of limitations has expired, and no IRS employee has been assigned to collect it; and

    - The tax bill has been assigned for collection, but more than a year has passed without any interaction.

9. Some tax bills *cannot* go to private collectors, as where:

    - There is a pending or active offer-in-compromise or installment agreement;

    - It is an innocent spouse case;

    - The taxpayer is deceased, under age 18, in a designated combat zone, or is a victim of identity theft;

    - The taxpayer is under IRS audit, in litigation, criminal investigation, or levy; or

    - The taxpayer has gone to IRS Appeals.

10. If you have a large tax debt, you might also have trouble traveling, since the IRS power to revoke passports was also signed into law. It is also part of the FAST Act. We think of passports as being needed only for international travel, but some people may find that passports are also required for domestic travel in 2016.

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