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What's Your Process? How to Work a Collections Case

By DAVID MILES, EA

Introduction

Coming into collection representation work in the late 90s, much of the disparity between practitioners rested in sorting out who knew the most rules and laws. A representative's ability to answer questions relating to technical aspects of IRS enforcement (such as *how many days exist before I lose levied money? or how long do I have to appeal a Trust Fund Recovery Penalty assessment?*) were commonplace. Yet today with almost immediate, real-time access to volumes of technical information, like the Internal Revenue Manual (IRM), there's a dynamic shift from relying simply on the acquisition of technical information to improving the capacity for applying information in a more systemic fashion. This is done by properly identifying issues, proactively predicting outcomes and executing actions efficiently.

Another source of information acquisition rests on the NAEA National Conference. Each year these courses provide attendees with extensive information, especially as it relates to collection representation. In some cases, an attendee can make NTPI fellowship in as little as one year. While this learning process is critical to ensuring that taxpayers are provided a certain level of professional assurance, we have to look towards how to use the information that has been acquired in a competent and efficient manner that protects the taxpayer. I refer to this as case process or resolution workflow.

In the technical sense, business processes are a collection of activities cutting across various departments, producing a valuable output or result for customers. Workflow, in turn, is used to automate these repetitive activities and increase the business' productivity. This allows for automation and efficiency to improve upon a business process.

From the practitioner standpoint, this boils down to being able to accurately describe the flow of a balance due account from engagement to resolution. Although each taxpayer's case is unique to the

individual or company's circumstances, the way in which the case is worked is not. In fact, there is a pattern that should generally be followed with every collection case.

The Early Process

Collections cases begin, in most instances, through the filing of a tax return that is not paid. There are certainly other origins for a collection case, such as audit, math errors and unfiled returns. However, when discussing systemic rules of thumb, these other issues are often an aspect of a larger balance due account and are not the lone concern.

For anyone that has attended or studied my Introduction to Collections seminar, you know that the IRS collection process begins in

a case's progression through the IRS letters as guidance to where it stands in collections. Notice status begins with a letter explaining the balance due and progresses through CP 504, a letter that clearly conveys a changing tone in the IRS' collection effort. At this point, the IRS announces its intent to move towards enforcement action.

Before a practitioner can rely on a letter to identify case status, there must be appropriate due diligence to ensure that all of the case nuances are brought to the surface. There may be, for example, other periods of liability that have already progressed through notice status and as a result are closer to enforcement. Due diligence is best accomplished by comparing taxpayer notes to information garnered

How long do I have to appeal a Trust Fund Recovery Penalty assessment?

fairly tame fashion. The changes brought on by the Restructuring and Reform Act of 1998 (RRA 98) sought to, "transform the culture from 'enforcement first' to a customer-oriented organization (TIGTA, March 28, 2016). Through RRA 98 the IRS adopted Due Process as an integral part of the new collection process. With Due Process comes a standardized approach to collection that begins strictly through an IRS mail campaign.

The result of the standardized mail campaign is an easily identifiable pattern of behavior called notice status. Notice status typically lasts approximately 120 days but it can also go on much longer. What's important is not to associate this phase with a definitive timeline, since it can vary greatly. Rather, practitioners should be able to put in plain words for taxpayers how and why this phase exists as well as the pros and cons of voluntary actions, like making payments. Instead of a timeline a practitioner should look towards

through an IRS customer service or Automated Collection System (ACS) call. The information gathered from the IRS should be immediately verified by obtaining account transcripts. Once case status is confirmed a practitioner can begin making recommendations.

What we come to know by understanding the start of this process is that if a taxpayer is in only this phase there will not be a levy. This knowledge allows a practitioner to put a taxpayer's mind at ease that, for the time being, assets are safe. If you are fortunate enough to engage a case this early it is an excellent opportunity to begin formulating a practical plan for resolution.

During the early phase of a collection case all contact in response to the IRS letters must be initiated by the taxpayer. We know the IRS will not make outbound phone calls. This point has been driven home by just about everyone in the tax community in response to the pervasive and ongoing



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Photo © iStock/Terry Wilson

telemarketing phone scams. Calling the IRS on behalf of the taxpayer can be a great way to better understand a case and establish a pattern of proactive behavior.

Early contact can also be done by mail. A simple letter to the IRS that explains a plan of action and the timeline in which it will be accomplished can be an effective way of communicating. Likewise, if there is a dispute of the IRS' message to the taxpayer it most assuredly should be put in writing as soon as possible.

In my practice I usually exercise some level of redundancy by both calling and writing. The IRS budget constraints have made it such that I can no longer rely on a single course of action to protect my clients. Although there is some time and resources lost, it is minimal as compared to the consequence of error. There is a lot of room for mistakes when dealing with an agency like the IRS and the taxpayer will often land on the wrong side of any discrepancy about communication. This methodology may not be as necessary early on in a case but it is crucial down the road.

Where the Road Diverges

Inasmuch as I have emphasized the broader flow of every collection case, there comes a time to bring the process back to the specific taxpayer. Collection cases need to be worked according to the priorities of each case. The reason for this is that different cases demand different resolutions. Some taxpayers are deeply impacted by the anxiety that comes with early collection notices and need a resolution quickly. For others, it may be the Notice of Federal Tax Lien (NFTL) that is a pressure point. Still, others may find that their motivation is only to ensure that levies are not issued or their company forcibly closed.

Let's take a moment to think of your Collection case process and a taxpayer's specific circumstances in terms of taking a bus trip with your client. Imagine that you are the one familiar with all of the potential routes and stops along the way. Each route has a driver. That driver, the IRS, is supposed to follow a pre-determined route and schedule.

However, before you board, you are in charge of determining where your client wants to end up. Your familiarity with the

routes (IRS rules, laws and procedures) allows you to suggest a specific direction based on your client's primary ambition. A factor in deciding where to go may be what there is to see along the way or what unique circumstances begin to unfold. Your experience gives you the opportunity to explain the routes and viable stops to your client, describing the places you can go, and what will happen if all goes according to plan.

Just like any journey, the duration from start to finish varies. Although some stops may be of initial interest, perhaps those aren't the best places to lead your client. Some of the stops are scary, some may not be as advertised, and others are just a waste of time. For example, putting resources towards the filing of an Offer in Compromise proposal for a client that you know will not qualify can be an extraordinary waste of time (and money). On the contrary, if a client turns to you appearing to qualify for a Streamlined Installment Agreement, there is no reason to propose taking a longer route.

You need to manage and guide the experience all the way through to its conclusion. You

don't want your client getting off at the wrong stop or not getting back on in time. Missing the bus can be a painful experience and may cost your client the opportunity to get to the end of the line.

Developing your Process

Turning back to tax talk, consider the analogy above in various representation scenarios. For example, a taxpayer facing an NFTL is concerned because of the damage it will cause to credit. Since the credit outcome will affect in the company's inability to do normal business and thus repay the IRS combating the lien may be a priority. In the case of a bank levy, should it be appealed if your client can continue to operate and meet its bills? The question must be asked because the decision is likely a combination of numerous factors, each of which could sway the decision one way or

another. Ultimately, a practitioner must decide if it makes sense to spend time and resources attempting to fight a proposed or actual action that has little impact on the goals just because the proceeding is available.

This summer at NTPI, I am going to introduce you to two fictional taxpayers who we will guide on a journey to what I hope will be successful collection resolutions...A Choose your Own Tax Adventure! Mr. Owen Cash and Weeowe Tacks, Inc. owe personal income tax and employment taxes, respectively. Both of these taxpayers have open and active collection collection cases with the IRS. As a group we will explore the obstacles each taxpayer faces, the various options that can help us move the cases forward and the possible outcomes of each chosen action. Some of the outcomes may not be favorable and in those situations we will go back to evaluate what

we could have chosen or how we could have performed differently in the hopes of achieving a better result.

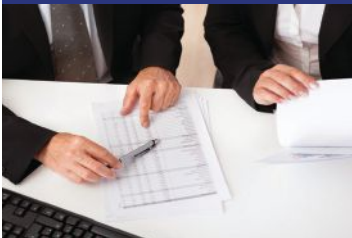
To tie it all together, a practitioner needs to be able to advise a taxpayer on what could happen and also what is most likely to happen in the course of a collection case. The practitioner then must take the taxpayer's specific situation into account to develop a strategy that allows decisions on where and when action is necessary. An efficient tax resolution practice provides tangible results that are interpreted as success by the taxpayer. **EA**

About the Author

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