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Maryland Volunteer Lawyers Service



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RESOURCES FOR MVLS VOLUNTEERS: LOOKING FOR PRO BONO CASES?

The image shows a screenshot of the Maryland Volunteer Lawyers Service (MVLS) website. The header includes the organization's name and a navigation menu with links for 'Who We Are', 'What We Do', 'Get Legal Help', 'Volunteer', 'News & Events', and 'Donate'. A dropdown menu is open under the 'Volunteer' link, listing several options: 'Ways to Get Involved', 'Apply to Be A Volunteer Lawyer', 'Attorney Resources', 'Pro Bono Portal', 'Judicare-Family Law Reduced-Fee Panel', 'Forms', and 'MVLS CAN (Community Advocacy Network)'. The 'Attorney Resources' and 'Pro Bono Portal' items are circled in red. A teal 'DONATE' button is visible on the right side of the page. The background features a large, stylized 'MVLS' logo and the tagline '...and Justice'.

MARYLAND VOLUNTEER LAWYERS SERVICE

Who We Are | What We Do | Get Legal Help | Volunteer | News & Events | Donate

Ways to Get Involved

Apply to Be A Volunteer Lawyer

Attorney Resources

Pro Bono Portal

Judicare-Family Law
Reduced-Fee Panel

Forms

MVLS CAN (Community Advocacy Network)

DONATE

...and Justice

NEW PRO BONO PORTAL

WELCOME TO THE MVLS PRO BONO PORTAL!

Select a case today by reviewing available cases shown below in real time. You can click "Learn More" to express your interest in the case, or click "Share Case" to forward the available case to a colleague.

If you are not currently a MVLS volunteer, please [click here](#) to register.

By taking a case today, you are helping MVLS to ensure Justice For All.

[All](#) [Bankruptcy](#) [Debt Collection](#) [Deed Transfer](#) [Estates](#) [Expungement](#) [Family](#) [Foreclosure/Tax Sale](#) [Landlord-Tenant](#) [Tax](#) [Other Category](#)

Search ... All Counties

Single Mom Can't Afford A Large Payment

Client is being sued by her former landlord for \$4146.59. She admits she owes some but not all of the debt and is hoping to reduce the amount she has to pay. Court date set for 7/20/18 at 1:30pm.

Location:	Ref. #:	Case Type:
Baltimore County	18-0138741	Debt Collection

[Share Case](#) [Learn More](#)

I Admit To The Debt, But Can We Negotiate A Settlement.

Client is being sued for \$933.00 for failing to make payments towards a debt. Client agrees that she owes the debt. There are no judgments entered in the case. Client has paid approximately \$300 toward the debt and would like to work out a settlement for the remaining. Affidavit Judgment Hearing: 7/23/18 at 1:00PM. Trial: 8/3/18 at 9:00AM.

Location:	Ref. #:	Case Type:
Washington	18-0138685	Debt Collection

[Share Case](#) [Learn More](#)

You Have Left Me No Other Choice But To File For Rent Escrow.

Client wishes to initiate a rent escrow case after nothing has been done to make repairs. Client has lived in the property since October 2016 and problems in the unit began in December 2017. To date LL, has not tried to resolve the mold issue, flooding, falling attic stairs, and the hole in the ceiling.

Location:	Ref. #:	Case Type:
Baltimore County	18-0138671	Landlord-Tenant

[Share Case](#) [Learn More](#)

Landlord Requests The Move, Now Refusing My Security Deposit.

Client filed suit against her previous Landlord for the return of her security deposit and three times the amount. Client only lived in the property for 3

Looking Towards A Fresh Start

Client seeks help with expunging her criminal record.

Here's To New Beginnings!

Client seeks to go over her criminal record with a volunteer and to have the eligible cases expunged from her record.



UPDATES ON DENIAL OR REVOCATION OF U.S. PASSPORT FOR SERIOUSLY DELINQUENT TAX DEBTORS

JOHN PONTIUS, ESQ.
PONTIUS TAX LAW, LLC

MARYLAND VOLUNTEER LAWYERS SERVICES
WEBINAR
OCTOBER 9, 2018

OVERVIEW

- In December 2015, the FAST Act created IRC section 7345
- This new Code section requires the Secretary of the Treasury to notify the Secretary of State if a certification has been made that an individual has a “seriously delinquent tax debt”
- Thereafter, the Secretary of State generally will deny a passport application or revoke a current passport of the seriously delinquent taxpayer
- On January 16, 2018, IRS Notice 2018-1 alerted taxpayers that the IRS and State Department would begin implementation of IRC section 7345

BACKGROUND

- At the request of Congress in 2011 the Government Accountability Office (GAO) published a study on the intersection of passport holders and delinquent IRS tax debt
 - GAO Report 11-271, March 10, 2011
- \$330 billion of unpaid federal taxes as of end of the 2010 fiscal year
- State Department issued 16 million individual passports during the 2008 fiscal year
 - Over 224,000 individuals (over 1%) owed over \$5.8 billion in federal taxes

MARYLAND EFFORTS TO COLLECT UNPAID TAXES

- Maryland Comptroller issues license holds for unpaid Maryland taxes
 - Business and professional licenses
 - Motor vehicle license and registration

STATE DEPARTMENT ROLE

- The State Department is responsible for issuing U.S. passports
- The IRS does not have the authority to issue or deny a U.S. passport

DEFINITION OF SERIOUSLY DELINQUENT TAX DEBT

- Unpaid,
- Legally enforceable tax liability of an individual,
- Assessed,
- Greater than \$50,000, and
 - Indexed for inflation and is \$51,000 in 2018
- The IRS has filed a Notice of Federal Tax Lien and the period to challenge it has expired or the IRS has issued a levy
- **IRC section 7345(b)(1)**
- \$50,000 tax liability threshold includes penalties and interest, IRS Notice 2018-1, January 16, 2018
- Once certified, partially paying the balance under the threshold will not reverse the certification, IRM section 5.1.12.27.2.2 (12-20-2017)
- Doesn't include non-tax liabilities collected by the IRS
 - Criminal restitution, FBAR penalties and past due support payments
- **Chief Counsel Notice 2018-005, April 5, 2018**

STATUTORY EXCEPTIONS TO SERIOUSLY DELINQUENT TAX DEBT

- Paying the debt under an approved installment agreement under IRC section 6149 or paying the debt under an accepted offer in compromise under IRC section 7122,
- A pending collection due process hearing under IRC section 6330, or
- A pending innocent spouse election under IRC section 6015(b) or (c) or pending innocent spouse relief under IRC section 6015(f).
- **IRC section 7345(b)(2)**
- IRC section 7508(a) provides another statutory exception for taxpayers serving in a combat zone

DISCRETIONARY EXCEPTIONS TO SERIOUSLY DELINQUENT TAX DEBT

- Debt in currently not collectible (CNC) status,
- Debt from tax related to identity theft,
- Debt in bankruptcy,
- Debt in a pending installment agreement or offer in compromise,
- Taxpayer located in a disaster area, or
- Debt pending an IRS adjustment that will fully pay the tax.
- **IRM section 5.1.12.27.4 (12-20-2017)**

NOTICE OF CERTIFICATION

- IRS collection letters include a paragraph warning of the denial or revocation of U.S. passport
- No other notice is required before certification
- TAS stated that this single notice does not provide a meaningful opportunity to contest the certification before it occurs
 - 2017 Annual Report to Congress, page 77
- IRS is required to provide contemporaneous notice of certification of a seriously delinquent tax debt to the taxpayer
 - IRC 7345(d)
- CP508C , “Notice of certification of your seriously delinquent federal tax debt to the State Department” via regular mail to taxpayer’s last known address
- Automated systems will be used to make the seriously delinquent tax debt certification determination, send the notice and post Transaction Code (TC) 971 and Action Code (AC) 641 to each module, IRM 5.12.27.5 (12-20-2017)

STATE DEPARTMENT ROLE AFTER CERTIFICATION

- Taxpayer certifications will be systemically provided to the State Department on a weekly basis
 - IRM section 5.1.12.27.6 (12-20-2017)
- IRS is authorized to share taxpayer's identity and the amount of the seriously delinquent tax debt with the State Department
 - IRC section 6103(k)(11)
- When presented with a certification for a taxpayer's seriously delinquent debt, the State Department will hold the passport application or renewal request for 90 days
- This allows the taxpayer to resolve any certification issues with the IRS before the State Department denies an application for a passport or renewal because of tax debt
- **IRM section 5.1.12.27.7 (12-20-2017)**
- Resolution options
 - Full payment
 - Enter into installment agreement
 - Accepted offer in compromise

REVERSAL OF CERTIFICATION

- IRS shall notify the State Department if the certification is:
 - Erroneous
 - Taxpayer fully paid the debt
 - Debt is under any of the statutory or discretionary exceptions
 - IRC section 7345(c)(1); Chief Counsel Notice 2018-05, April 5, 2018
- Additional decertifications
 - Reduction in tax based upon the filing of valid or amended returns after the return is processed and posted
 - Penalty abatement but not first time abatement
 - IRM section 5.1.12.27.8

REQUEST FOR EXPEDITED DECERTIFICATION

- Taxpayer is eligible for decertification,
- Taxpayer states their foreign travel is scheduled within 45 days or less; or the taxpayer lives abroad, AND
- Taxpayer has a pending application for passport or renewal, and can provide their passport application number and location of passport application if the taxpayer applied outside the U.S.
- **IRM section 5.19.1.5.19.1 (12-26-2017)**
- State Department may issue a U.S. passport to a taxpayer in emergency situations or for humanitarian reasons regardless of the IRS certification
 - 22 U.S.C. 2714(a)

TIMING OF NOTICE OF REVERSAL OF CERTIFICATION

- IRS is required to notify the taxpayer of the reversal of the certification
 - IRC section 7345(d)
- Timing of the notice depends on the reason for the reversal
 - Fully paid or legally unenforceable debt, notice when required for issuing a lien release under IRC section 6325(a); IRC section 7345(c)(2)(A)
 - Election of Innocent spouse relief, request for installment agreement or offer in compromise, 30 days after election or request, IRC section 7435(c)(2)(B)-(C)
 - Erroneous, as soon as practicable, IRC section 7435(D)
- In most cases, the decertification will be done systemically. However, manual decertifications will be needed for amended/original returns and non first time penalty abatement.
 - Memorandum for Taxpayer Advocate Service Employees, TAS-13-0418-0001 (April 26, 2018), Appendix A

JUDICIAL REVIEW

- If the taxpayer believes the certification is erroneous, he or she can request the certification reversal by calling the phone number on the Notice CP508C, “Notice of certification of your seriously delinquent federal tax debt to the State Department”
- Taxpayers can seek judicial review of the certification in a U.S. District Court or the U.S. Tax Court under IRC section 7345(e)
 - Erroneous certification, or
 - Failure to reverse the certification
- Judicial review does not stop collection actions, IRM section 25.3.3.7.5 (01-13-2017)
- Taxpayer may not go to IRS Appeals to challenge the certification or the failure to reverse the certification, IRS Notice 2018-01, January 16, 2018

JUDICIAL REVIEW

CHIEF COUNSEL NOTICE 2018-005,

APRIL 5, 2018

- Tax Court proposed adding new Title XXXIV (19) to Rules of Practice and Procedure
 - Jurisdiction of the court
 - Title and content of the petition
 - Require the filing of an answer, and
 - State when the case is deemed at issue
- Clarifications
 - IRC Section 7345 does not provide for judicial review of the amount of liability
 - Courts may disagree based upon fundamental constitutional right to travel, protected by the due process clause of the U.S. Constitution
 - IRC Section 7345(e) does not specify a period of limitations. General rule of the Administrative Procedure Act applies: 6 year limit for individual to bring a certification action
 - IRC Section 7345(e) does not specify the standard of review. Review is confined to the administrative record. Standard of review: abuse of discretion, 5 USC section 702(2)(A).
- Appeals of Tax Court certifications go to the U.S. Court of Appeals for the DC Circuit

RECOMMENDATIONS

- Tax professionals should advise their individual clients who have federal tax debts over \$51,000 about the passport denial or revocation procedures
 - Resolve the tax debt before a certification of seriously delinquent tax debt is made
- Taxpayer Advocate Services estimates that there are 270,000 taxpayers that meet the criteria for a seriously delinquent tax debt and do not meet one of the statutory or discretions exceptions to certification
 - 2017 Annual Report to Congress, page 73



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QUESTIONS?