



Tax Controversy Issue Spotting for the Savvy VITA Volunteer

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What Issues Can You Refer to LITCs?

Tax Controversy:

- “[...] any dispute between an individual and the IRS concerning the determination, collection, or refund of any tax, penalties, or interest. The definition is very broad and encompasses all types of [non-criminal] disputes arising under the IRC.” IRS Publication 3319

Income Limitations:

- Generally, household income under 250% of FPL (can be less than VITA guidelines)

Some General Issues We Are Seeing

- More taxpayers are using the DUT irs.gov/help/irs-document-upload-tool
- Solar Credit fraud persists and confuses taxpayers
- False claims for refund of fuel tax credit & Covid sick and family leave
- Ghost Preparers
- IRS refusal to disburse rightfully claimed RRC & Child Tax Credit refunds
- Statute of Limitations to make 2020 RRC claim passed; 2021 looms.
- Taxpayer inability to navigate ID verification

What Issues Are You Seeing?



Tax Controversy Issue Spotting: Balance Due

Issue Spotting: Balance Due

... *why* do they owe?

Common Causes:

- Under withholding (multiple jobs, Self Employed)
- One-time taxable income (settlement, cancelled debt, retirement distribution, etc.)

Assisting Clients Who Owe

Owes Due to Multiple Jobs?

- Consult on adjusting W4
- Probably not a controversy

Owes Due to SE Income?

- Consult on quarterly requirement and setting up payments
- Likely controversy if back years owed or can't afford to "get current."

- Likely controversy if cannot afford to pay the tax
- Owes Due to One-Time Payment of Taxable Income:

Assisting Clients Who Owe: What To Say?

“Advise taxpayers to file ... on time, even if they can’t pay the full amount owed. They should pay as much as they can with the return to reduce penalties and interest.” –IRS Pub 4012

Good Advice vs. Bad Advice

- Always file on time to avoid Failure to File penalty
- Penalty & Interest accrue based on outstanding balance

BUT

- What does “pay as much as you can” really mean?

Doesn't prioritize taxpayer rights and the legal protections people

Assisting Clients Who Owe: What To Say?

“Pay as much as they can with the return to reduce penalties and interest.” – Publication 4012

Suggested Additional Information:

“Pay as much as you can *afford* to pay without sacrificing basic needs (rent, medicine, food, auto insurance, etc.). The more you pay & the sooner you pay – the lower the penalties and interest. You have rights to alternatives to full payment if you cannot afford to fully pay.”

Empower clients to decide for themselves with full knowledge of their options and consequences.

Assisting Clients Who Owe: Options?

- Full Pay within 180 days
- Installment Agreement
- Currently Not Collectible
- Offer in Compromise
- Penalty Relief (First Time Abatement or Reasonable Cause)

Each has Pros/Cons

Some require a financial statement (income/assets/spending) to IRS



Tax Controversy Issue Spotting: Refund Due

Assisting Clients Who Expect IRS to Keep Their Refund

Taxpayer owes unpaid federal tax?

- **Offset Bypass Refund** - Taxpayers who need a refund to meet basic needs can get it!
 - Provide proof of the dollar amount of economic hardship (e.g., past-due utility bill, eviction notice, deferred car maintenance)
 - **IMPORTANT: Do not e-file!** Nearly impossible to reverse offset after the fact
 - **Refer to LITC to request OBR and evaluate any defenses to the old debt**

Assisting Clients Who Expect IRS to Keep Their Refund

Taxpayer Owes non-IRS federal or state debt?

- **No Offset Bypass Refund** – IRS can't stop a refund offset to a state or non-IRS federal debts

Such debts include child support & state tax debts

- The taxpayers should call Treasury Offset Program (800-304-3107) or Bureau of Fiscal Services (816-414-2100) to learn the name and contact information for the creditor who received the refund.

Taxpayers must contact the creditor (not IRS) to request refund or address inaccuracies.

Other Reasons A Taxpayer May Not Receive an expected refund

- Spouse owes a debt: Potential injured spouse (Form 8879)
- Client owes a joint tax debt created by his spouse's income - Potential innocent spouse (Form 8857)
- Income erroneously reported in their name – Potential Identity Theft (Form 14039)

Another taxpayer has claimed their children (Audit)¹³

#1 Reason Taxpayers May Not Get An Expected Refund: “Math Error”

- LITC referral likely in order
- Math errors in recent years were frequently related to Recovery Rebate Credits and expanded Child Tax Credit
- 60 days to appeal math error notice; IRS frequently disregards the law; may require refund trace (F3911).



Tax Controversy Issue

Spotting: Past IRS Letters

Past IRS Letters Can Reveal...

Audits changes or math error changes to past tax returns

- Identity theft
- Disputes over taxpayer's eligibility for credits and deductions
- Disputes over income, often involving third-party reports to IRS
- 2 or 10-year ban on certain refundable credits

Client may need to clear up an issue to get a previously-filed 1040 processed

- Identity verification
- EIC recertification
- Premium Tax Credit reconciliation

Collection issues (past balances)

How do you know if a client received letters from the IRS?

• Intake/Interview & Quality Review Sheet (Form 13614-C) page 3:
6. Did you, or your spouse if filing jointly, receive a letter from the IRS? Yes No

- Even if a client answers “no” on the intake form, preparers may notice IRS letters in the client’s papers
- Taxpayer may mention it during the intake, preparation, or even exit process.

When there's past IRS correspondence...

- Ask your client about it!
 - BUT they might not fully understand the letter
- Most IRS letters have a notice or letter number in the upper right corner
 - E.g. LT11; CP90
 - Look it up at [irs.gov/notices](https://www.irs.gov/notices) or taxpayeradvocate.irs.gov/roadmap
- If you still have questions, consult with or refer to your local LITC
- Even if deadlines have passed, LITCs can still assist clients with their options



Tax Controversy Issue

Spotting: E-File

Rejections

Reject Reasons To Raise Your Antennae

- Taxpayer Claimed as Dependent
- Taxpayer's Dependent Already Claimed
- Taxpayer Return Already Filed
- Failure to recertify for EIC, CTC/ACTC, or AOTC
- 2 or 10 Year Ban prevents EIC, CTC/ACTC, or AOTC claim

Should taxpayers change their return just e-file?

- A rejected 1040 can be a legally valid return that can be paper filed without changes
- Can the issue causing e-file rejection be cured while claiming all appropriate tax benefits (the maximum refund/minimum tax)?
 - If Yes, great!
 - If No, try to consult with or refer to an LITC **before e-filing**

Should a client remove a child to e-file, then claim the child on Form 1040X?

Taxpayers have strong legal rights if IRS disagrees with an **original tax return**, including an appeal to the U.S. Tax Court

- U.S. Tax Court is a low-cost, taxpayer-friendly court

Taxpayers do not have the same rights with an **amended return** (Form 1040X)

- *Possible* appeal to the IRS Independent Office of Appeals, depending on timing of 1040X & other factors (e.g., whether the tax has already been paid)

Should a client remove a child to e-file, then claim the child on Form 1040X?

Taxpayer should decide after understanding the legal rights they are giving up

- Clients with urgent financial needs may elect to remove a disputed child to e-file and receive *some* refund more quickly

Best practice: the client should get legal advice before e-filing a return that forgoes benefits they know they are entitled to take.



Tax Controversy Issue Spotting: Post-Filing IRS Letters

Pre-Return-Processing Letters

- Letter 12C: “we need more information to process your return”
 - Wage verification
 - Identity verification - TAC appointment may be a good option for those who fail phone verification

Return processing issues qualify as tax controversies

- Most efficient to assist these clients directly, but if you can't assist, refer to an LITC

Post-Return-Processing Letters

“Math error” letters

- CP11, CP13 - “We made changes to your tax return because we believe there is a miscalculation”
- CP12: “We corrected one or more mistakes on your return”
- Refer to an LITC if there’s any doubt about the change (the letter is usually too vague to know)

Taxpayers only have **60 days to object & get full appeal rights**

If time is short, taxpayer should send a letter disputing the change by certified mail & keep a copy.

Post-Return-Processing Letters Cont'd.

- Other letters: LITCs frequently handle audits, automated underreporter notice matters, and other compliance cases.
- IRS letters usually have response deadlines. Sometimes they matter, sometimes they don't.
- Important deadlines:
 - Notice of Deficiency, 90 days to petition U.S. Tax Court
 - Math error, 60 days to dispute to get U.S. Tax Court appeal rights
 - Notice of Intent to Levy and Notice of Your Right to a Hearing / Notice of Court appeal rights.
Federal Tax Lien and Notice of Your Right to a Hearing (Collection Due Process notices) – 30 days to dispute to suspend collections and get U.S. Tax



Questions?

Resources

- Publication 4134
- <https://www.taxpayeradvocate.irs.gov/>
- <https://www.taxpayeradvocate.irs.gov/get-help/roadmap/>
- Prosperity Now, Tax Prep Dispatch
 - [LITCs and VITA, Two Sides to the Same Coin](#) (by Caleb Smith)
 - Protecting Taxpayer Rights at VITA: When to Put the Brakes on E-Filing, [Part One](#) & [Part Two](#) (by Christine Speidel)
- Issue Spotter graphic: VITAResources.net