

Back Taxes and Passports

Quick-Take: Specific procedures must be followed if an individual's passport is revoked or not re-issued due to his/her failure to pay income taxes.

Background: This is the time of the year when individuals start planning for their summer travels abroad. Is their passport current? is often the first question that they ask themselves before scheduling their international travel. Yet they seldom ask themselves if their passport has been revoked?

IRS Certification: The Tax Code gives the IRS the authority to certify if an individual has a 'seriously delinquent tax debt. [IRC 7345.] If that certification is made to the U.S. Secretary of State, it is mandated to act with respect to the denial, revocation, or limitation of the individual's passport. A *seriously delinquent tax debt* is an assessed, unpaid tax liability that exceeds \$50,000 (which floor amount is adjusted for inflation.) A recent federal court describes the rigid procedural challenges an individual whose passport has been revoked under this statute must follow to regain his/he passport.

United States v. Richard Hatch, Jr., U.S. District Court of Rhode Island, No. 1:22-cv-00332 (March 2, 2026)

Facts: Richard was in a long-running tax dispute with the IRS for many years. The IRS filed suit to collect back taxes from him. The IRS filed the certification that Richard's tax liability was *seriously delinquent* under IRC 7345, which barred Richard's efforts to renew his passport. The IRS had filed a notice of lien, Richard's administrative rights had lapsed or were exhausted [IRC 6320], and the levy had been made, after which the IRS filed its collection suit.

Dispute: In response to the IRS's collection suit, Richard filed a motion to compel the United States to renew his passport in order to enable him to "travel overseas, make a living, and begin to pay off his debt." [It should probably come as no surprise when reading zealous defense attorney responses, that Richard also felt compelled to add to his motion that he had been subjected to "systemic judicial abuse, psychological torture, and

prosecutorial overreach,” language that one judge I used to appear before enjoyed calling from the bench, *purple prose*. But I digress.]

Court: The Court ruled against Richard, but solely on procedural grounds.

Challenge to Certification: The Court initially noted that the Tax Code expressly gives a taxpayer who wants his passport the right to bring a civil action in the District Court of the United States, or against the Commissioner of the Internal Revenue Service in the U.S. Tax Court to determine if the IRS’s certification was erroneous. [IRC 7345(e)(1).] But those are the only two avenues for seeking relief to an IRS certification.

No Jurisdiction: However, the question that was before the Court caused by Richard’s motion to compel in a proceeding that was initiated by the IRS to collect Richard’s tax liabilities. The case before the court did not involve a claim that Richard did not have a seriously delinquent tax debt. There was no formal legal assertion by Richard that the tax debt was improperly certified under the statute. Therefore, the Court accepted the IRS’s argument that the Court had no authority to interfere with Richard’s demand to have his passport issued by the U.S. State Department.

Not a ‘Backdoor:’ In denying Richard’s motion to compel, the Judge noted that an ongoing collection action brought by the IRS cannot be utilized as a ‘backdoor’ process to bypass the specific civil action that is required by the Tax Code to challenge a passport certification. [IRC 7345(e).] *“Simply put, this is not the correct legal vehicle for Mr. Hatch to receive his requested relief.”*

Practice Advice: The judge noted in a footnote Richard’s frustration: *“it would seem to be in the government’s best interest to work with Mr. Hatch so that he may obtain his passport to allow him to earn a living through work overseas to pay off his tax debt....But also, this Court does not have the authority in this case to do so by order.”*

Conclusion: This case is a helpful reminder that a challenge to an IRS certification under IRC 7345 cannot be brought as a general equitable claim within the IRS’s separate tax

collection claim. Rather, the individual must file a separate, 'stand-alone,' civil action that expressly claims the erroneous nature of the certification itself.

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