

CHAPTER 7

REPRESENTING CLIENTS IN TAX CONTROVERSIES

Introduction

As participants in the Tax Assistance Program (TAP) and the Legal Assistance Program, attorneys not only have a duty to their clients, but also to the system of tax administration. It is important to understand that the purpose is not to assist the clients in evading tax liability, or, in any way, give the impression that TAP will assist in frustrating the efficient administration of the tax laws. The TAP seeks a fair and equitable disposition of tax liability and filing of tax returns. While attorneys should zealously seek the most favorable consideration for their clients, they must consider that they must work within the framework of the tax laws and system.

Quality Service and Professionalism

Personnel in the TAP are trained to give their clients the highest quality, professional representation. Attorneys are to furnish competent advice and zealous representation within the bounds of the law and professional standards. This includes treating clients, the Internal Revenue Service, and fellow TAP personnel with utmost respect and courtesy. An attorney should be careful not to suggest, in any way, that a client may reduce tax liability by engaging in unethical behavior. It is essential that TAP personnel remain familiar with and at all times abide by the ABA Rules of Professional Conduct as well as by Treasury Circular 230.

Confidentiality is an essential component of the client/attorney relationship. It facilitates candor on the part of the client. TAP personnel must strictly abide by accepted standards of attorney/client confidentiality. Attorneys have a duty to their clients, the legal profession, and the TAP to exercise the highest level of personal integrity that should pervade all areas of their legal practice.

Cases Handled

Besides tax return preparation, the TAP or Legal Assistance Office may encounter clients that have problems with the IRS. These cases are most likely be in one of the following stages:

1. The taxpayer has received a 30-day letter. This is a preliminary letter, which proposes the redetermination of tax by the Internal Revenue Service. The 30-day letter follows an audit by an I.R.S. agent. It asks the taxpayer to either sign and return an agreement to the examiner's findings, or request a conference with an appeals officer. The request for a conference must be submitted within a 30-day period. Normally, a "Protest" will be filed to request an appeals hearing.
2. The taxpayer has received a 90-day letter. This is a statutory notice of deficiency under Internal Revenue Code § 6212. To be timely, it must be mailed before the expiration of the statute of limitations on assessment of tax. This letter permits the taxpayer to petition the Tax Court for review of the deficiency prior to payment, as long as the petition is filed within a 90-day period. Normally, in counting the period of time within which a response to a 30- or 90- day letter must be delivered, the day that the letter was mailed by the I.R.S. is not counted. Thus, the 90 days within which a Tax Court Petition must be delivered to the Court begins on the day after the envelope containing the letter from the I.R.S. was postmarked. Delivery takes place when the Petition is mailed, as evidenced by the postmark. In counting the 30- or 90-day period all days, business and nonbusiness, are counted. However, if the final day falls on a Saturday, Sunday or legal holiday in the District of Columbia, the document is due on the next business day. The 90-day letter will contain a stamped date. If this date is later than the postmark date, the 90-day period can run from this date. Failure to file a petition within the 90-day period excludes the U.S. Tax Court from jurisdiction.
3. The taxpayer has filed a petition with the U.S. Tax Court pursuant to the "small case" procedure and is seeking help with either settlement or litigation.
4. The taxpayer has paid the claim and seeks to institute a refund suit in a district court or the Claims Court. In this situation the taxpayer may have by-passed the opportunity for administrative appeal or has not filed a petition in U.S. Tax Court.
5. The taxpayer has failed to respond to I.R.S. 30- or 90-day letters, tax has been assessed, and the matter has been transferred to collections.
6. If the matter has been transferred to collections, it may be appropriate to prepare an Offer in Compromise.

Getting Started

In order to most effectively represent your clients here are a few suggestions:

1. In representing a client with the IRS, ask the client to sign two Power of Attorney forms (Form 2848).
2. Immediately send a copy of the Power of Attorney form under an appropriate cover letter to the last IRS official with whom your client. If the case is in Appeals, contact the Appeals Officer by faxed letter and identify yourself as the new attorney on the case.
3. In cases in which a 30- or 90-day letter has been received, you need to calculate the date by which a response must be made (if this is already noted in the file, it would be a good idea to double check the date). If a petition is required, consult with your supervisor to determine if your Legal Assistance Office or TAP will represent the client.
4. If the case file contains a Notice of Intent to Levy and no stay has been obtained, coordinate to secure a stay from Collections.

The Initial Client Interview

During the initial interview, the attorney must gather sufficient information to determine if the client is eligible for legal assistance services. Copies of tax returns, I.R.S. correspondence, etc., should be obtained at the initial interview. It will be an objective of the initial interview for you to motivate your client to participate in all aspects of the case.

Develop Rapport and Allay Fears

Effective client interviewing is one of the important skills that any attorney must develop. A good rapport with the client must exist if the attorney expects to acquire all the information needed to adequately represent the client and to have the client's trust. A client who is afraid, intimidated, or distrustful could impede representation. It is the attorney's responsibility to ensure that the client feels as comfortable as possible during the interview, to assuage concerns and to dispel any distrust the client may have. Always keep in mind that we are service providers.

Most people are uncomfortable revealing private matters to someone whom they do not know. The client may be embarrassed by their financial circumstances and by the problems they are having with the Internal Revenue Service. Individuals with limited resources frequently feel powerless to defend themselves against so formidable an adversary as the Internal Revenue Service.

It is very important that TAP personnel are sensitive to fears and anxieties of their clients. TAP personnel must make it clear during the initial interview that the TAP is not part of the I.R.S.

TAP personnel must also gain the client's confidence in their ability to provide assistance. (This may be a challenge for someone who has some uncertainty about his own competence.) The TAP personnel should never be embarrassed about lack of knowledge related to a particular issue. Even tax experts do not apologize for saying: "I will research it for you." Most people are aware that the tax law is in a constant state of flux, and are understanding of the need to research a particular issue.

No Leading Questions

TAP personnel are to conduct interviews in question and answer style that requires a narrative response. TAP personnel must ensure that they do not ask leading questions. Do not indicate what the law is. Clients should not be tempted to construct their response to fit the applicable law.

Obtain All Needed Documents

Taxpayers may fail to bring all the requested information, and it is not uncommon for the interview to reveal additional needed documents. The TAP personnel should review all of the documents that the taxpayer has brought or mailed in, and make copies of them before returning them to the Client. (It is important to remember to copy both sides of the documents.)

Bankruptcy

It is imperative during the initial interview that the TAP personnel determine whether the client has filed bankruptcy (under chapter 7, 11, or 13) and, if so, a copy of the bankruptcy petition or discharge should be obtained. Once a bankruptcy petition has been filed, there is an automatic stay imposed under Bankruptcy Code 362 that prohibits any action to enforce the collection of a debt and that prohibits taking any steps that would affect the bankruptcy estate without permission of the Bankruptcy Court. The automatic stay precludes the commencement or continuation of a case docketed in Tax Court. Moreover, actions taken by the I.R.S. in violation of the automatic stay are null and void. Further, if the stay is willfully violated punitive sanctions may be imposed or equitable relief in the form of injunction or declaratory judgment may be granted.

There are also statute of limitation implications and other consequences that result from filing a bankruptcy petition. Filing a bankruptcy petition stops the running of the statute of limitation for assessment and collection of tax. Assessment is suspended while the automatic stay is in effect and for a 60-day period after the stay terminates. In addition, the period during which the I.R.S. can collect a nondischargeable tax liability is suspended while the stay is in effect and six months after the stay is lifted.

Because of the foregoing issues and other tax consequences of filing bankruptcy, TAP personnel must determine if the client filed bankruptcy and must determine whether the automatic stay is in effect.

Marital Status

Attorneys must also ascertain during the interview whether the client was legally married at the end of the tax year in question. The client's marital status has a bearing on the client's filing status, personal exemptions and earned income credit. TAP personnel also must ascertain whether the client was estranged or legally separated from his spouse.

Tax Audit Checklist

After a taxpayer explains his current tax controversy during the initial conference, the TAP personnel must have him complete the Tax Audit Checklist to be retained in the taxpayer's file. This Checklist is an important source of information because the TAP personnel need to be aware of the taxpayer's previous tax disputes or of his failure to file tax returns. The TAP personnel do not want to hear about a year in controversy for the first time from an I.R.S. representative. The TAP personnel need to have the total tax picture of a client before he begins negotiating on behalf of the client. An I.R.S. representative may raise an issue or a matter relating to a different tax year during a conference, and the attorney will want to be as knowledgeable as possible. If the submission of an Offer in Compromise is a possibility, the attorney should always consider submitting an offer which encompasses all of the taxpayer's tax deficiencies.

Before asking the taxpayer the questions on the checklist, remind him that the Legal Assistance Office, Tax Center, or TAP is independent of the I.R.S. and that the information he gives will remain confidential. Explain, however, that an attorney can be effective as his tax representative only if he knows what the client has previously done or failed to do as it pertains to federal income taxes. The attorney needs to impress upon the taxpayer that, as his representative, the attorney can help resolve the tax dispute only if he is thoroughly informed. Include the taxpayer's explanations in the spaces provided on the checklist.

Ensure that information concerning whether the client has filed a bankruptcy petition within the last five years appears in the correct space on the Tax Audit Checklist.

TAX AUDIT WORKSHEET

Taxpayer's Name _____

Case No. _____ Date _____

1. Are you withholding a sufficient amount of taxes to meet your income tax obligation for the current year?

2. Have you filed all required income tax returns?

3. Did you include all income reported to you on a W-2 or 1099, including corrected forms?

4. Have tax returns been filed by the due dates?

5. Did you pay the balance of taxes due?

6. Have you failed to receive an expected refund?

7. Are you currently making payments under an I.R.S. installment payment plan?

8. Have you previously signed an installment payment agreement with the I.R.S.?

9. Have you previously submitted an Offer in Compromise?

10. Have you received a 30-day letter for a previous year?

11. Have you received a 90-day letter for a previous year?
12. Have you previously filed a petition to the U.S. Tax Court?
13. If you operated a business, did you file all employment tax returns?
14. Did you deposit the required employment taxes?
15. Are you currently involved in a bankruptcy proceeding?
16. Are you contemplating filing a bankruptcy petition?
17. Have you previously filed a bankruptcy petition? If so, what year(s) did you file?

Offer in Compromise

Section 7122 of the Internal Revenue permits the Service to compromise a taxpayer's tax liability. New procedures indicate a more receptive attitude by the Service to accept a reduced amount in complete settlement of a taxpayer's liability. The goal of the Offer in Compromise program is to bring in as much revenue as quickly as possible. The Service encourages a taxpayer to secure the offered amount from all possible sources including borrowing from relatives, friends, or from credit card companies.

The Offer in Compromise is submitted on Form 656. This must be done using the most recent revision of the form. An Offer may be based on a doubt as to taxpayer's liability for the proposed tax. In addition or in the alternative, an Offer may be based on a doubt as to collectibility when the taxpayer is unable to pay the entire proposed tax deficiency. The following procedural checklist may be helpful:

1. On Form 656 item (5), list all unpaid tax liabilities to be compromised, using the proper line for the applicable tax liability.
2. State the total amount of the Offer in item (7) of Form 656. Include a statement that the balance of the Offer will be paid within 30-days after taxpayer has received notice of the Offer's acceptance, unless there is specific need for additional time.
3. If the Offer is based on a doubt as to liability, item (6) of Form 656 should refer to an attached statement which provides all facts and legal analysis in support of taxpayer's position.

4. If the Offer is based on a doubt as to collectibility, the statement of reference in item (6) should provide facts emphasizing taxpayer's inability to pay and other negative factors such as poor health, unemployment status, age and education of the taxpayer. The taxpayer should complete Form 433-A, a Collection Information Statement for Individuals, which must be submitted with Form 656. This statement is extremely important because the financial information provided will be the basis for the determination by the Service of the adequacy of the amount offered.
5. In Section IV of Form 433-A, taxpayer states the equity in his assets -- the difference between the value of the assets and the accompanying liabilities. The value of the assets may be subject to negotiation between the taxpayer and the Service, and appraisals may be needed to determine the "quick sale" value of the assets. The "quick sale" value is an amount that would be realized if taxpayer were forced to sell the asset within a short period of time and is generally a lesser amount than the "fair market" value. The amount of the offer must be at least equal to the taxpayer's equity in assets listed in this section.
6. In Section V of Form 433-A, taxpayer lists monthly income and necessary living expenses. If income exceeds expenses, the amount offered must include the equity in that earnings capacity. Compute the present value of that excess monthly income over a 5-year period and add that amount to the equity in assets listed in Section IV to determine the amount of the Offer. Taxpayer should list all necessary monthly living expenses so that any excess income is an accurate amount.
7. The taxpayer needs to be able to produce financial records and documentation to support the amounts claimed for income, expenses, assets and liabilities.
8. Inform the taxpayer that the Service may request financial records for a period covering several months. Therefore, if the information listed should vary substantially from other records, taxpayer should be prepared to provide a reasonable explanation.
9. Counsel taxpayer not to make any significant changes in the financial picture presented on Form 433-A while the Offer is pending. Although taxpayer is under no duty to update Form 433-A, any subsequent improvement in taxpayer's financial condition which the Service discovers may jeopardize the acceptance of the Offer.
10. The Service has 6 months in which to make a decision about the Offer. However, the attorney should expect a Revenue Officer to contact him to discuss the Offer prior to the expiration of that period.

11. The attorney should counsel the taxpayer of the following:
 - a) If the Offer is accepted, taxpayer will not receive any tax refund to which he may be entitled for the year of acceptance.
 - b) Taxpayer must timely pay his current tax liabilities for the next five years or the compromised tax liability may be reinstated.
12. If the taxpayer has little equity in assets and a positive monthly cash flow, an installment payment agreement may be the best option for the taxpayer and the Service if the tax deficiency could be paid over a 12-24 month period. The monthly payment must be at least \$25. Interest continues to accrue monthly until the liability is satisfied.
13. If an acceptable Offer is not negotiated, the attorney may make a final appeal to the Problem Resolutions Office only if collection action by the Service would create a significant financial hardship on the taxpayer.

Additional Information Required for Offer in Compromise

When a taxpayer submits an offer in compromise, the I.R.S. routinely requires verification of the taxpayer's assets, liabilities, income and expenses. The following information is frequently requested:

1. Copy of the most recent tax return along with W2's and 1099's.
2. Canceled checks and bank statements for the last twelve months.
3. Original cost of real estate, purchase date, fair market value, mortgage, and balance.
4. Copies of the title for all vehicles owned (provide copies of lease agreement for vehicles leased).
5. Type and amount of insurance policies, and cash surrender value if any.
6. Information to substantiate current monthly living expenses (bills and receipts).
7. Recent credit card statements.
8. Record of current net earnings (pay stubs or earning statements) for last three months.
9. Current statements showing value of interest in all retirement accounts (IRA, 401k, Keogh, pension, etc.).
10. Record of stocks, bonds, or other securities owned with current market value of each.
11. Copy of apartment lease if renting.
12. Verification of medical and dental expenses.
13. Payment statement of car insurance, and payment statement of health insurance.

Accordingly, as a matter of practice the above information should be submitted along with the Form 656, Forms 433A and 433B, and supporting narrative when submitting an offer in compromise.

OFFER IN COMPROMISE COVER LETTER

DATE

Internal Revenue Service
Group 3200, Offer Unit
XXXX Blvd.
XXXXX, XX 30341

RE: Client's Name
ID#

Dear Sir or Madam:

I respectfully submit the enclosed documents for an Offer in Compromise on behalf of the above-referenced taxpayer(s):

1. Form 656 (original and two copies);
2. Statement of Explanation (original and two copies); and
3. Form 433-A (original and two copies).

If you should have any questions, please contact me at the XXX-1412.

Sincerely,

XXXXXXXX

STATUTE OF LIMITATIONS

When assisting a client with a tax problem you should determine the statute of limitations on assessment, collection, and refund.

Limitation on Assessment

Generally, the I.R.S. must assess the tax within three years after the return is filed. Further, taxes cannot be assessed until a statutory notice of deficiency (90-day letter) is mailed to the taxpayer. If the tax is not assessed within the three-year period, the I.R.S. cannot collect the tax from the taxpayer. I.R.C. §6501(a). However, when a taxpayer omits a substantial amount of gross income (an amount exceeding 25% of gross income) the statute of limitations is extended to six years. I.R.C. § 6501(e). Also, under the Code the I.R.S. can bring a suit anytime to collect the tax where the taxpayer does not file a return (I.R.C. §6501(c)(3)), or if a false or fraudulent return is filed (I.R.C. § 6501(c)(1),(2)).

The date of assessment is the date the Assessment Officer signs the Assessment Certificate (also called the record of assessment). The record of assessment can be obtained from the I.R.S. to verify the date of assessment. This assessment information should also be recorded on the taxpayer's transcript of account. As a matter of routine, TAP personnel should obtain the record of assessment in each case where there is any question whatsoever concerning the statute of limitations on assessment.

The record of assessment may be obtained by calling the I.R.S. at 1-800-829- 1040. When a person comes on the line, make your request. Ensure that you have the taxpayer's TIN, the tax years for which the request is being made, and the taxpayer's current address and telephone number handy.

Some taxpayers may extend the statute of limitation by written consent under the authority of 6501(c)(4). This may be accomplished by means of a "regular" consent executed on Form 872, which extends the limitations period to a specified date or, accomplished by means of a "special" consent which is executed on Form 872-A. This form may extend the limitations period indefinitely unless terminated by either the taxpayer or the I.R.S. The Form 872 can only be terminated by execution and delivery of a Form 872-T. In order to terminate a Form 872-A the Form 872-T can only be filed at the I.R.S. office handling the taxpayer's case. The limitations period expires 90 days after receipt of the Form 872-T by the appropriate office.

Limitation on Collection

Ordinarily, the I.R.S. has ten years (there was a six year period on taxes assessed before November 6, 1990) to collect the assessed tax. I.R.C. §6502(a)(1). If the taxpayer files a valid and timely Tax Court petition, the I.R.S. cannot assess or collect the tax until the Tax Court decision becomes final. If the taxpayer allows the ninety-day period to run without paying the tax or filing a petition, the I.R.S. may assess the tax and begin collection activity. If a taxpayer files a bankruptcy petition after a notice of deficiency is mailed but before the 90-day period (150 days if taxpayer is out of the country) expires, the ninety-day period is suspended from the date the bankruptcy petition is filed until the taxpayer is discharged or dismissed, plus 60 days. If a taxpayer submits an offer in compromise the statute of limitations is suspended for any period the offer is pending, which includes the period required to process the offer plus any period required to process any appeal, and for one additional year after the offer is accepted.

Limitation on Filing Claim for Refund

The I.R.S. has no authority to recognize that an overpayment of tax has been made until a taxpayer files a claim for refund. I.R.C. §§ 6511, 6514.

The normal limitation period for filing a claim for refund is three years from the time the return was filed, or two years from the time the tax is paid, whichever is later. I.R.C. §6511(a). There is a restriction on the amount of credit or refund that the I.R.S. is required to make. If a taxpayer files a claim for refund within three years of when the return was filed then the amount of the refund or credit cannot exceed the amount of tax paid within the three years period preceding the date the claim was filed. I.R.C. §6511(b)(2)(A). If the taxpayer does not file a claim for refund within three years of filing a return, the amount of refund or credit cannot exceed the amount of tax paid within the two years preceding the date the claim was filed. I.R.C. §6511(b)(2)(B).

TRANSMITTAL LETTER - I.R.S. FORM 2848

[Date]

Internal Revenue Service
XXXX Appeals Office
XXX West Peachtree Street, NW
Suite XXX, Stop XXX
ATTN:
XXXX, XXXXX XXXXX

Re:

Dear [Name]:

Enclosed is a Power of Attorney (Form 2848) executed by the above named taxpayer appointing XXXXX as representatives.

Thank you and we look forward to working with you.

Sincerely,

XXXXXXXXXX
CPT, JA

cc: Taxpayer

Enclosures

PROTEST LETTER

[Date]

District Director
Internal Revenue Service
XXXX W. Peachtree St.
XXXXX, GA XXXX

RE: [Name of taxpayer]
Thirty-day letter dated:
Your reference:

Dear [Name]:

Reference is made to your letter dated _____ and the report of adjustments resulting from the examination of the _____ tax year(s) of the above-named taxpayer(s). A copy of your letter is attached. The adjustments set forth in the letter and report are protested, and a hearing at the Appeals Office is respectfully requested.

Enclosed is a Power of Attorney executed by the above named taxpayer(s) naming XXXXX.

Thank you for your assistance.

Sincerely,

Attorney (type name below)

cc: Taxpayer
Enclosures

SAMPLE PROTEST

[Date _____]

District Director, Internal Revenue Service
XXX W. Peachtree St. NW
XXXX, XX 30365

Dear Sir (or Madam):

The undersigned taxpayer(s) [NAME OF TAXPAYERS], hereby protest(s) the proposed assessment of federal income tax (and penalties) set forth in the Report of Income and Tax Audit Changes dated [_____].

The facts relating to the protest are as follows:

- 1. The name and address of the taxpayer(s) is (are):

[_____

_____]

- 2. The letter proposing the assessment in tax was submitted under date of [], and under the symbol letter 950(DO) (Rev. 6-89). Attached to the referenced letter(s) is the examination report prepared by the Revenue Agent.
- 3. The proposed deficiencies in federal income taxes and assertions of penalties which are in controversy are as follows:

[RE: TAXPAYER NAME]

| Year Ended () | Proposed Deficiency | Penalties Under Section |
|----------------|---------------------|-------------------------|
| () | [\$ _____] | [\$ _____] |
| () | [\$ _____] | [\$ _____] |
| () | [\$ _____] | [\$ _____] |

- 4. Exception is taken to (the entire proposed deficiency of income tax) (and penalties) as set forth in the Agent's Report.
- 5. Facts, law and argument upon which the taxpayers base this protest are set forth in the following portion of this protest.

FACTS

Set forth the facts related to each of the proposed adjustments.

LAW AND ARGUMENT

State the law applicable to each proposed adjustments.

SUMMARY AND CONCLUSION

It is respectfully submitted that the proposed adjustments to taxable income for the years in question and the resulting proposed deficiencies in income taxes and penalties thereon are not supported by fact or law. It is further contended that the statutory period for assessing such taxes has expired and prevents such assessment. In the event that the contention of the taxpayer as set forth in this protest are not acceded to by your office, a conference in connection therewith is respectfully requested. Powers of Attorney enabling the taxpayer's(s') representative to represent the taxpayer have already been submitted to your office.

Respectfully submitted,

Taxpayer Signature

Taxpayer Signature

Taxpayer Signature

DECLARATION

We declare under penalties of perjury that this protest, including any accompanying schedules and statements, has been examined by us and to the best of our knowledge and belief is true, correct and complete.

Taxpayer Signature

Taxpayer Signature

Taxpayer Signature

AGENT'S CERTIFICATE

The foregoing protest was prepared by _____; and said protest was prepared on the basis of facts and information obtained from the taxpayer(s); and while I do not know of my own knowledge that the facts set forth are true, the facts are believed to be true.

(Signature)

Typed Name of Attorney

Terminating Legal Representation

One of the more undesirable tasks that you may be confronted with as attorneys is terminating representation of a client. Circumstances may develop that indicate that is impractical or unwise to continue the attorney-client relationship. The following situations may signal that the attorney client relationship should be severed: serious personality conflicts; frequent disputes over tax positions or case resolution strategy; failure to make appointments and failure to provide requested information; problems with inadequate records; serious questions about the taxpayer's honesty; or the taxpayer's inability to accept responsibility for actions that lead to the alleged tax liability.

The decision to terminate should be communicated in person. If this is impractical then representation can be terminated over the telephone, and followed up with a certified, return receipt requested termination letter. When you tell your client about your decision to terminate the attorney-client relationship you should express regret that the decision had to be made; express concern about terminating the relationship without admitting fault; provide the client a written status report about outstanding matters, including any deadlines that must be met. You should also remember to assure the client that confidences will be maintained.

Once the client is informed about the decision the following actions should be taken: the I.R.S. should be notified that you no longer represent the taxpayer; all powers of attorney (Form 2848) should be revoked; and all client records should be returned. However, copies of pertinent records required to document the termination should be made and retained. Finally, you should prepare a memorandum that documents the circumstances that led to your decision to terminate.

In a Tax Court case where a petition has been filed, or where an entry of appearance has been made, it will be necessary to draft a detailed motion to withdraw in compliance with Rule 24c setting out the factual basis for the motion before the counsel of record can be allowed to withdraw from the case.

Making the decision to end representation with a client:

The steps to follow after a determination has been made to terminate representation:

1. *Existing Client* - Given that there is an existing relationship, the decision to terminate can be complicated. A deadline for a response may be useful to motivate the client to respond to your calls and correspondence. It is also necessary to notify the client of any upcoming deadlines. A typical letter might contain the following:

It is very important that you maintain contact with the Legal Assistance Office or Tax Center to ensure that your case is properly resolved with the Internal Revenue Service. We cannot hold open files indefinitely.

Please at (xxx) xxx-xxxx between 1:00 pm and 5:00 PM by [10 business days later] to discuss the status of your case, and to tell me how to reach you during

the day. If I do not hear from you, I will assume that you no longer want the Legal Assistance Office or Tax Center to handle your case and I will close your file.

I am looking forward to hearing from you.

2. Terminate relationship when no response from taxpayer. The following example contains some suggested language:

We are sorry, but for the reasons discussed in our recent correspondence, the Legal Assistance Office or Tax Center is unable to continue to represent you. As a result, I am closing your file. In terminating our representation we have taken the following actions:

1. *I have terminated the Power of Attorney (Form 2848) in this matter.*
2. *I have notified the I.R.S. that I am no longer representing you in this matter. Enclosed is a copy of the letter informing the Internal Revenue Service of our discontinuance of representation.*
3. *I am returning all the documents and information you furnished to me and they are enclosed with this letter.*

In the correspondence to notify the taxpayer of the termination, the attorney should be sure to explain to the client that the case is not being declined or terminated due to the subject matter of the case, but rather that the Legal Assistance Office or Tax Center has limited resources and that proper representation is impossible without the taxpayer's assistance.

Communication with the IRS regarding an uncooperative client:

It is essential that the attorney present the client in the most favorable light possible. Disclosing to IRS officials that the client is uncooperative or difficult can be detrimental to the client's case. When communicating with the IRS, consider how the client would want to be presented, and that the client is entitled to full disclosure of all communications that you make on his/her behalf.

LETTER TERMINATING REPRESENTATION

December 9, 1995

Mr. John Smith
111 Melrose Place
Peachtree City, GA 30214

Dear Mr. Smith:

As I informed you earlier, pursuant to the terms of our engagement letter, neither I or the Legal Assistance Office/Tax Center will represent you in your tax controversy any longer. In terminating our representation, we have taken the following actions:

1. We have terminated our Power of Attorney (Form 2848) in this matter.
2. We have notified the I.R.S. that we are no longer representing you in this matter.
3. We are returning all the documents and information you furnished to us and they are enclosed with this letter.

The status of the engagement to date is as follows:

- 1.
- 2.

As I informed you previously, you must provide the information the I.R.S. requested by January XX, 2XXX. Additionally, you must be prepared to meet with the Appeals Officer, Mr. Jones, on February XX, 2XXX. If you can not provide the information requested and or meet with the appeals officer or meet on the date established, you or your representative should coordinate with the appropriate I.R.S. officials to change the dates.

If you provide me with written authorization, I will be happy to discuss the status and history of your case with your new representative. If you have any additional questions feel free to contact me.

Sincerely,

TERMINATION OF POWER OF ATTORNEY LETTER

Date

Internal Revenue Service
XXXXX,XXX 39901

RE: Taxpayer's Name & Social Security #

Dear Sir or Madam:

This is to inform the Internal Revenue Service that I am terminating the Power of Attorney with respect to the above-captioned taxpayer. Toward that end, we have notified the taxpayer of our discontinuance of representation.

Thank you for your assistance.

Sincerely,

XXXXXXXXXX

cc: [Taxpayer]