

The Community Tax Law Report™

An interdisciplinary approach to the taxation of low-income individuals.

Vol. 7 No. 2
Fall/Winter 2004

Contents

In this Issue:

CDP and Collections:
Perceptions and
Misperceptions
Leslie Book 1

Poverty Levels and Federal
Tax Thresholds: 2004
*Jonathan Barry Forman
and Nina Jung* 5

The Effective Tax
Administration Offer In
Compromise
Brian C. Bernhardt 8

Secrets of the
Internal Revenue Manual
Gail Levin Richmond 10

The National Taxpayer
Advocate's Offer
in Compromise
Recommendations 18

Next Issue:

Current Issues for Special
Needs Populations

Focus On
Collections

Focus on Collection Due Process

CDP AND COLLECTIONS: PERCEPTIONS AND MISPERCEPTIONS

by Leslie Book

Writing in these pages almost seven years ago, I described the then-new collection due process taxpayer rights.¹ At the time, I questioned whether collection due process ("CDP") struck the right balance between the interests of taxpayers and the government. We now have the benefit of time to assess CDP's merits, and look back at some of the IRS Restructuring and Reform Act of 1998's (RRA 98) changes to the tax administration landscape. This is particularly important in light of a few recent developments. First, enforced collection activities are on the upswing, with leading indicators like collection revenue and levies on the increase following the post-RRA 98 general enforcement decline.² Yet, despite this increase, there is still a sense that the IRS can be doing more to collect assessed liabilities, which becomes more pronounced during periods of deficits.³ Practical limitations on IRS budgeting has, in part, fueled the demand for (i) injecting private parties into the tax collection process⁴ and (ii) questioning whether existing procedural protections (like CDP) may create improper resource demands on IRS personnel, thus improperly draining away scarce IRS resources from the essential task of collecting taxes.⁵ Further, a respected observer of tax procedure and collection process in particular, has declared that CDP adds "no value," is an "undesirable growth in the tax administration forest" and has called for CDP's repeal.⁶ In light of this current situation, this essay addresses some of the common misperceptions about collection in general and CDP in particular, and considers the implications of *Robinette v. Commissioner*,⁷ a recent case about the manner of judicial review of CDP determinations.

Journalists and academics alike have commented as to how many of the stories of IRS abuse that the Senate Finance Committee uncovered leading up to RRA 98 were, at best, overblown, and at worst, not true.

Continued on page 2