

United States Government Accountability Office

GAO

Report to Congressional Requesters

March 2011

FEDERAL TAX COLLECTION

Potential for Using Passport Issuance to Increase Collection of Unpaid Taxes



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Why GAO Did This Study

According to the Internal Revenue Service (IRS), as of the end of fiscal year 2010, the balance of reported unpaid federal taxes was about \$330 billion. Given the many challenges that IRS faces, the enforcement of the tax laws and the tax code is on GAO's list of high-risk areas. GAO was asked to (1) determine, to the extent possible, the magnitude of known unpaid federal taxes for individuals who were issued passports in fiscal year 2008; and (2) identify examples of passport recipients who have known unpaid federal taxes. GAO reviewed data from the Department of State (State) and IRS. To identify examples for detailed audit and investigation, GAO chose a nonrepresentative selection of 25 passport recipients based on a number of factors, including amount of taxes owed. These case studies were chosen, among other things, by the more egregious amount of federal taxes owed and cannot be generalized beyond the cases presented.

What GAO Recommends

If Congress is interested in pursuing a policy of linking federal tax debt collection to passport issuance, it may consider taking steps to enable State to screen and prevent individuals who owe federal taxes from receiving passports. This could include asking State and IRS to jointly study policy and practical issues and develop options with appropriate criteria and privacy safeguards. State provided technical comments which we incorporated into the report as appropriate.

View [GAO-11-272](#) or key components. For more information, contact Greg Kutz at (202) 512-6722 or kutzg@gao.gov.

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What GAO Found

State issued passports to about 16 million individuals during fiscal year 2008; of these, over 224,000 individuals (over 1 percent) owed over \$5.8 billion in unpaid federal taxes as of September 30, 2008. State is not authorized to restrict the issuance of passports to individuals because they owe federal taxes. In addition, federal law does not permit IRS to disclose taxpayer information, including unpaid federal taxes, to State officials unless the taxpayer consents. In contrast, federal law permits certain restrictions on the issuance of passports to individuals, such as individuals owing child support debts over \$2,500. For 2008, the estimated amount of unpaid federal taxes is likely understated because it excludes individuals who have not filed tax returns or underreported income. In addition, according to State officials, State cannot compel a passport applicant to provide a Social Security Number (SSN). As a result, State's records sometimes did not contain a valid SSN, which is necessary to match passport data to IRS data. Also, the number of passport holders and dollars owed only includes 1 year of passports that were issued, substantially understating the total tax debt for all passport holders.

GAO judgmentally selected 25 passport recipients to investigate for abuse related to the federal tax system or criminal activity. Of these cases, at least 10 passport recipients had been indicted or convicted of federal laws. In addition, IRS assessed trust fund recovery penalties on several passport recipients when the individual did not remit payroll taxes to the federal government. Rather than fulfill their role as trustees of this money and forward it to IRS, they diverted the money for other purposes. Willful failure to remit payroll taxes is a felony under U.S. law. Some of these individuals accumulated substantial wealth and assets, including million-dollar houses and luxury vehicles, while failing to pay their federal taxes. At least 16 passport recipients traveled outside the country while owing federal taxes. At least 4 passport recipients resided in another country at the time of GAO's investigation. Two individuals used the identities of deceased individuals to fraudulently obtain passports and then used these passports to travel to Mexico, France, and Africa. In one case, the unpaid tax debt belonged to a deceased individual, and in the other case, the debt was incurred by the imposter. We referred these 2 cases to IRS for further investigation.

Examples of Abusive and Criminal Activity

Type	Unpaid tax debt	Description
Gambler	\$46.6 million	The individual generally claimed to owe no taxes on returns filed in the early 2000s. Received about a \$2 million tax refund for one of these returns. Subsequent IRS tax examinations in the mid 2000s determined that the recipient actually owed tens of millions of dollars in taxes for those tax years. Gambled tens of millions of dollars at the same time the income taxes were not paid.
World Bank employee	\$300 thousand	Has not filed income tax returns in the 2000s. Generally failed to make any personal income tax payments or withholdings to IRS.
Department of State contractor	\$100 thousand	Owed personal income taxes and trust fund recovery penalties for failure to pay employment taxes. Did not file income tax returns for 2 years.

Source: GAO analysis of IRS, State, public, and other records.

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United States Government Accountability Office
Washington, DC 20548

March 10, 2011

The Honorable Max Baucus
Chairman
Committee on Finance
United States Senate

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate

The Internal Revenue Service (IRS) pursues collection of unpaid federal taxes to help ensure compliance with and confidence in the tax system. As of September 30, 2010, IRS had identified cumulative unpaid taxes, including interest and penalties, of about \$330 billion. Beyond this reported tax debt, the amount of unknown tax debts is substantial. This is because the inventory of tax debts excludes underreported amounts filed by taxpayers and taxes owed by taxpayers who do not file tax returns.¹ Given the many challenges that IRS faces, the enforcement of the tax laws continues to be on our list of high-risk areas.

In fiscal year 2008, the Department of State (State) issued over 16 million passports to U.S. citizens. Federal law permits the Secretary of State to deny or revoke the issuance of passports in certain circumstances. For example, the Passport Denial Program described in 42 U.S.C. § 652(k) requires State to deny passports to individuals based on delinquent child support obligations. Under the program, the names of noncustodial parents certified by a state as having arrearages exceeding \$2,500 are submitted by the Department of Health and Human Services to State, which denies them U.S. passports upon application or the use of a passport service until the debt is satisfied. Since the program was initiated in 1998, about \$200 million has been collected on child support obligations

¹The tax gap is the difference between the amount of tax imposed by law and what taxpayers actually pay on time. The tax gap arises from the three types of noncompliance: not filing required tax returns on time or at all (the nonfiling gap), underreporting the correct amount of tax on timely filed returns (the underreporting gap), and not paying on time the full amount reported on timely filed returns (the underpayment gap). The tax gap, about \$345.0 billion based on updated fiscal year 2001 estimates, represents the amount of noncompliance with the tax laws. It does not include any taxes that should have been paid on income from illegal activities.

from this program. However, State is not authorized to restrict the issuance of passports to individuals because they owe federal taxes.

Given your interest in the challenges that IRS faces in collecting unpaid taxes, and the potential for substantial future tax collections from tax-delinquent individuals holding or seeking issuance of a passport, you asked us to (1) determine, to the extent possible, the magnitude of known unpaid federal taxes for individuals who were issued passports in fiscal year 2008; and (2) identify examples of passport recipients who have known unpaid federal taxes.

To identify the magnitude of passport recipients with unpaid federal taxes, we obtained and analyzed IRS tax debt data as of September 30, 2008, and obtained and analyzed data on passport recipients from State for fiscal year 2008. We matched the list of passport recipients with IRS tax debts using the Social Security number (SSN). To identify examples, we selected 25 passport recipients for a detailed audit and investigation of the extent and nature of abusive or criminal activity. A nonrepresentative selection of 25 cases were selected from the population of passport recipients who owed federal taxes described above using a data mining approach based on a number of factors, such as total amount of taxes owed by passport recipients, number of tax years that the passport recipient did not pay all taxes, types of taxes, and location of the tax recipient. For these 25 cases, we reviewed copies of automated tax transcripts and other tax records (for example, revenue officers' notes) and performed additional searches of criminal, travel, financial, and public records. These case studies serve to illustrate the sizeable amounts of taxes owed by some individuals who were issued passports in fiscal year 2008 and other characteristics of the cases that can extend beyond the tax system. These cases were among the more egregious and cannot be generalized beyond the cases presented. A more detailed description of the scope and methodology related to our audit and investigative work supporting this report is provided in appendix I.

We conducted this forensic audit from October 2009 to March 2011 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We conducted our related investigative work in accordance with standards prescribed by the Council of the Inspectors General on Integrity and Efficiency.

Background

Individuals with Unpaid Taxes Are Not Prohibited from Receiving Passports

Federal law does not authorize State to deny the issuance of passports to individuals who owe federal taxes. Federal law permits the Secretary of State to deny or revoke the issuance of passports only in certain circumstances, including, but not limited to, when the individual

- is subject to a criminal court order, condition of probation, or condition of parole, any of which forbids departure from the United States and the violation of which could result in the issuance of a federal warrant of arrest, including a warrant issued under the Federal Fugitive Felon Act;
- is over \$2,500 delinquent in child support;
- is delinquent in certain Department of State debts;
- has an outstanding felony warrant;
- has an outstanding foreign felony warrant;
- is subject to an extradition request that has been presented to a foreign country;
- has been declared legally incompetent;
- used a passport or crossed an international border to commit an act based on which the individual was subsequently convicted of certain drug trafficking crimes, but only during the period the individual is imprisoned or on parole or supervised release; or
- used a passport or crossed an international border to commit an act based on which the individual was subsequently convicted under the federal “sex tourism” statute, but only during the period the individual is imprisoned or on parole or supervised release.

Federal Law Prevents Disclosure of Taxpayer Information

The protection of taxpayer information is commonly thought to be critical to voluntary compliance with the tax code and necessary to protect taxpayer privacy. Under current law, taxpayer information is protected under 26 U.S.C. § 6103, among other provisions. IRS must keep taxpayer information confidential and may only disclose it under limited circumstances, e.g., for federal or state tax administration, to assist in the enforcement of child support programs, and to verify eligibility for public assistance programs, unless the taxpayer consents to such disclosure. Individuals or agencies receiving taxpayer data must, as a condition of receiving such data, have safeguards for the protection of, and for accounting for, the use of such data.

Magnitude of Unpaid Taxes Owed by Individuals Issued a Passport

The State Department issued passports to over 224,000 individuals who owed over \$5.8 billion in known unpaid federal taxes as of September 30, 2008.² This represented over 1 percent of the approximately 16 million individuals issued a passport during fiscal year 2008. Currently, federal law does not authorize State to deny the issuance of passports to individuals who owe federal taxes. Because IRS's database does not include amounts owed by taxpayers who have not filed tax returns and for which IRS has not assessed tax amounts due, the estimated amount of unpaid federal taxes is likely understated. Also, the figures cited within this report only represent passports issued for 1 fiscal year. As such, our estimate likely understates the total amount of unpaid taxes by all passport holders. According to State, there are tens of millions of passport holders, thus the number of passport holders with unpaid federal taxes and the magnitude of unpaid federal taxes owed by passport holders are likely to be substantially higher than the figures cited in this report.

Tax Characteristics of Individuals Issued a Passport

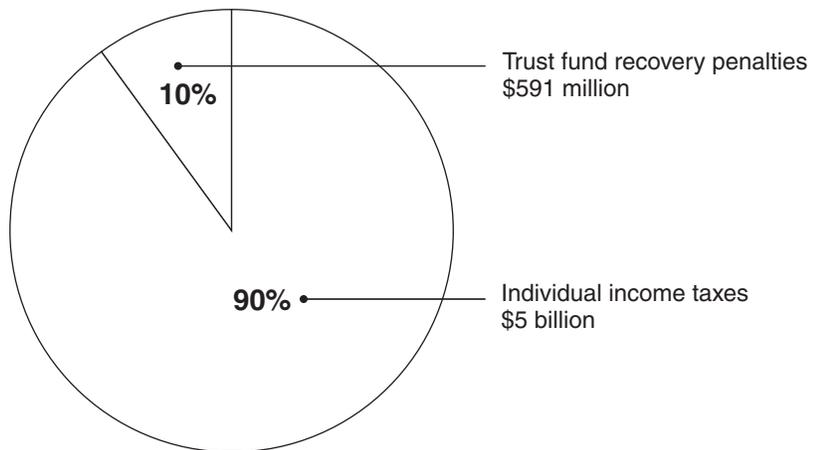
As shown in figure 1, about 90 percent of the approximately \$5.8 billion in unpaid taxes comprised individual income taxes. The other 10 percent of taxes were taxes owed from "trust fund recovery penalties."³ In these situations, IRS found that individuals within the business (e.g., corporate officers) were personally liable for the payroll taxes withheld from employees' paychecks but not forwarded and assessed a civil monetary penalty for those withheld amounts.⁴

²Our analysis included all individuals issued a passport during fiscal year 2008. Our analysis of individuals with tax debt as of September 30, 2008, did not include (1) tax debts that IRS classified as compliance assessments or memo accounts for financial reporting, and (2) tax debts of less than \$100. See appendix I for more details on our methodology.

³Under 26 U.S.C. § 6672, individuals who are determined by IRS to be responsible for collecting, accounting for, and paying over payroll taxes who willfully fail to collect or pay these taxes can be assessed a Trust Fund Recovery Penalty (TFRP). This penalty, typically assessed against owners or officers of a corporation, such as a president or treasurer, is assessed for the amount of taxes the business withheld from its employees' salaries but did not remit to the federal government, the so-called trust fund portion of payroll taxes. The business itself is still liable for the entire amount of the unpaid payroll taxes, but IRS can seek collection from the responsible owner/officers for the trust fund portion of the unpaid taxes when they are assessed this penalty.

⁴Willful failure to remit payroll taxes can also be a criminal felony offense punishable by a fine of not more than \$10,000, imprisonment of not more than 5 years, or both, while the failure to properly segregate payroll taxes can be a criminal misdemeanor offense punishable by a fine of not more than \$5,000, imprisonment of not more than 1 year, or both, and the costs of prosecution. 26 U.S.C. §§ 7202 and 7215.

Figure 1: Passport Recipients with Unpaid Taxes by Tax Type as of September 30, 2008



Source: GAO analysis of Department of State and IRS data.

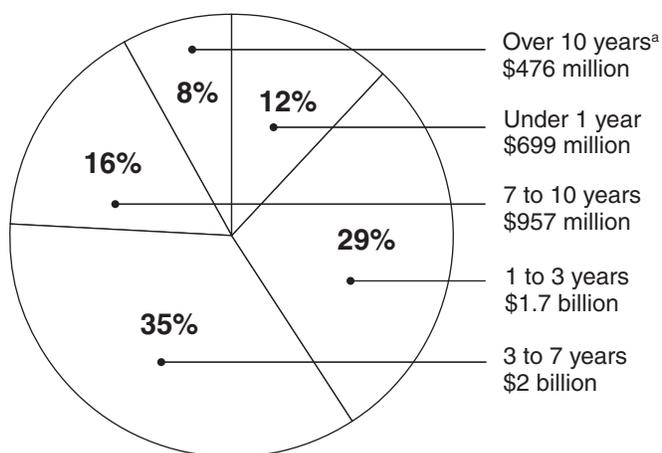
A substantial amount of the unpaid federal taxes shown in IRS records as owed by individuals issued a passport in fiscal year 2008 had been outstanding for several years. As reflected in figure 2, about 41 percent of the \$5.8 billion in unpaid taxes was assessed within the last 3 years. Our previous work has shown that as unpaid taxes age, the likelihood of collecting all or a portion of the amounts owed decreases.⁵ This is, in part, because of the continued accrual of interest and penalties on the outstanding tax debt, which, over time, can dwarf the original tax obligation. The amount of unpaid federal taxes reported above does not include all tax debts owed by individuals issued a passport in fiscal year 2008 because of statutory provisions that give IRS a finite period under which it can seek to collect unpaid taxes. Generally, there is a 10-year statutory collection period beyond which IRS is prohibited from attempting to collect tax debt.⁶ Consequently, if the individuals issued a

⁵GAO, *Internal Revenue Service: Recommendations to Improve Financial and Operational Management*, GAO-01-42 (Washington D.C.: Nov. 17, 2000).

⁶The 10-year time limit may be suspended and include periods during which the taxpayer is involved in a collection due process appeal, litigation, a pending offer-in-compromise, or an installment agreement. As a result, figure 2 includes taxes that are for tax periods from more than 10 years ago.

passport owe federal taxes beyond the 10-year statutory collection period, the older tax debt may have been removed from IRS's records. We were unable to determine the amount of tax debt that had been removed.

Figure 2: Passport Recipients Owing Unpaid Taxes (by age of assessment) as of September 30, 2008



Source: GAO analysis of Department of State and IRS data.

^aThe 10-year time limit may be suspended and include periods during which the taxpayer is involved in a collection due process appeal, litigation, a pending offer-in-compromise, or an installment agreement. As a result, the figure includes taxes that are for tax periods for over 10 years.

Further, for many of these debts, IRS is attempting to collect using the Federal Payment Levy Program (FPLP).⁷ FPLP is a levy program where the Department of the Treasury collects delinquent tax debt by continuously levying (offsetting) up to 15 percent of certain federal payments (e.g., federal salary payments and certain Social Security

⁷The Department of the Treasury uses the Treasury Offset Program (TOP) for FPLP. TOP is an automated process administered by Treasury in which certain federal payments are withheld or reduced (offset) to collect delinquent tax and nontax debts owed to federal agencies, including IRS. For FPLP, Treasury matches federal payments to the tax-debt records sent to it by IRS, and when a match occurs, Treasury offsets (levies) the federal payments and transmits the amount levied to IRS to reduce the tax debtor's outstanding debt and sends the residual to the debtor.

Administration payments) made to tax debtors.⁸ IRS typically sends their tax debts to FPLP except in cases where

- (1) IRS has not completed its notification process;
- (2) tax debtors have filed for bankruptcy protection or other litigation;
- (3) tax debtors have agreed to pay their tax debt through monthly installment payments or have requested to pay less than the full amount owed through an offer in compromise;
- (4) IRS determined that the tax debtors are in financial hardship;
- (5) tax debtors are filing an amended return; and
- (6) IRS determined that specific circumstances (e.g., criminal investigation) exist that warrant special exclusion from FPLP.

Our analysis of Treasury data found that about 42,500 of the approximately 224,000 passport recipients were sent to Treasury for continuous levy. The dollar amount of these debts was about \$1.3 billion.

Unpaid Federal Taxes of Individuals Issued a Passport Are Substantially Understated

Although the over \$5.8 billion in unpaid federal taxes owed by individuals issued a passport as of September 30, 2008, is a significant amount, it likely substantially understates the full extent of unpaid taxes owed by these or other individuals. The IRS tax database reflected only the amount of unpaid federal taxes reported by the individual on a tax return or assessed by IRS through its various enforcement programs. The IRS database does not reflect amounts owed by businesses and individuals that have not filed tax returns or understated their taxable income and for which IRS has not assessed tax amounts due. For example, during our audit, we identified several instances from our 25 case studies in which individuals issued a passport failed to file tax returns for a particular tax period and IRS had not assessed taxes for these tax periods. Consequently, while these individuals likely had unpaid federal taxes, they were listed in IRS records as having no unpaid taxes for those periods. Further, our analysis did not

⁸Subsequent legislation increased the maximum allowable levy amount to 100 percent for payments to federal contractors and other vendors for goods or services sold or leased to the federal government.

attempt to account for individuals who purposely underreported income and were not specifically identified by IRS as owing the additional federal taxes.

In addition, although federal law requires passport applicants applying for or renewing a passport to provide their SSN if the applicant has a SSN, having a SSN is not a prerequisite to obtaining a passport.⁹ According to State officials, section 7(a)(1) of the Privacy Act prevents State from refusing to issue a passport to an applicant even though the application does not have a SSN. State officials stated that State needs legislation to compel passport applicants to provide a SSN and to withhold passport issuance or deny the application for failure to do so. Therefore, we found that State records did not always contain this key field or contained obviously false numbers, as State instructs applicants who do not have a SSN to enter all zeros into the SSN field of the passport application. The lack of SSNs prevented us from determining whether those passport applicants had unpaid federal taxes and, if so, the amount of unpaid taxes owed by them.

Because our \$5.8 billion estimate in unpaid taxes only represents 1 year of passport recipients, the dollar amount of tax debts owed by individuals who hold passports is likely to be substantially higher. State issues millions of passports each year.¹⁰ As such, the amount of tax debt for individuals currently holding U.S. passports may be in multiples of our \$5.8 billion estimate for fiscal year 2008. Because passports are typically valid for up to 10 years, many of these individuals will likely owe federal taxes at the time they apply for renewal of their passports.

⁹26 U.S.C. § 6039E. Any individual failing to provide a SSN is subject to a \$500 penalty, unless it is shown that such failure is due to reasonable cause and not to willful neglect. IRS has responsibility for assessing such penalties.

¹⁰For example, in fiscal year 2009, State issued about 13 million passports.

Examples of Individuals Issued a Passport Involved in Abusive and Potentially Criminal Activity Related to the Federal Tax System

Among the 25 cases involving passport recipients with outstanding tax debt that we audited and investigated, we found abusive or potentially criminal activity related to the federal tax system. These 25 passport recipients either lived outside the United States or resided in California, Florida, Illinois, Nevada, New Jersey, New York, Oregon, Texas, or Washington. Of these cases, we identified several passport recipients for which IRS had assessed trust fund recovery penalties due to these individuals' willful failure to remit payroll taxes withheld from their employees' paychecks to the federal government. In these situations, IRS found that several of these individuals were to be held personally liable for the withheld amounts not forwarded and assessed a civil monetary penalty for those withheld amounts. Rather than fulfill their role as "trustees" of this money and forward it to IRS as required by law, these passport recipients diverted the money for other purposes. Our investigations revealed that, despite owing substantial amounts of federal taxes to IRS, some of these 25 passport recipients had substantial personal assets—including multimillion dollar homes and luxury cars. For example, one passport recipient purchased a house for about \$2 million and investment property for about \$1.5 million while the recipient owed over \$1 million in federal taxes. Another passport recipient owned luxury vehicles and gambled millions of dollars while owing about \$47 million in taxes. This recipient received multimillion dollars in federal tax refunds to support this lifestyle until IRS discovered the tax debts in a later examination.

Our investigations found that several of these recipients used their passports to travel internationally for business. Two of the case study passport recipients are or had been individuals who worked on State contracts who traveled to Europe, Asia, and the Caribbean performing work for State. These individuals were or are potentially performing sensitive work for the Department of State on behalf of the United States. However, 26 U.S.C. § 6103 precludes IRS from disclosing their names to State, and precludes us from both disclosing their names to State and from contacting State to determine whether these individuals have security clearances. Our investigations also found that two individuals committed identity theft by using the identities of deceased individuals to fraudulently obtain passports. Our investigations found that these individuals used their passports to travel to Mexico, France, and Africa. Issuing passports to "deceased" individuals, in these cases, enabled fraudulent activity of these individuals who traveled internationally using the identity of and impersonating the deceased individual. We referred these two cases to IRS

for further investigation. Similar to the State contractors, 26 U.S.C. § 6103 also precludes us from referring these fraud cases to State directly.¹¹ Our investigations also revealed that at least four passport recipients currently reside in another country while owing federal taxes. For example, we identified one passport recipient who filed no tax returns nor paid any taxes to IRS during the 2000s, who currently lives overseas while working for the World Bank.

During our investigations, we also noted the following:

- At least 14 passport recipients did not file their annual income tax return for 1 or more years.¹²
- For at least 20 passport recipients, IRS had filed federal tax liens against a recipient's property.
- IRS included at least 16 of the passport recipients in FPLP for continuous levy.
- At least 10 passport recipients had been indicted or convicted of violating federal laws.¹³ These include indictments and convictions for controlled substance distribution, making false statements to the government, bank fraud, and money laundering.
- One passport recipient lives in a million-dollar house that is owned by the individual's employer. The employer leases the house to the recipient for thousands of dollars a month.

Table 1 highlights 15 of the 25 cases of individuals owing federal taxes at the time of passport issuance. Appendix II provides details on the other 10 cases we examined. We are referring all 25 cases we examined to IRS for further collection activity and criminal investigation, if warranted.

¹¹According to State, State requested disclosure of the identity and information on these two persons from IRS pursuant to 26 U.S.C. § 6103(i)(3)(A)(i)-(ii).

¹²IRS has requirements for individuals to file that are based on filing status, age, and income. The nonfiling of taxes does not necessarily indicate nonpayment of taxes. However, the histories of these individuals indicate that taxes were likely due.

¹³In the processing of passports, State officials said that they do not have access to law enforcement databases of individuals who are arrested or indicted. According to State, if a court, Department of Justice, or IRS provided State with a copy of a criminal court order, condition of parole, or probation which forbids departure from the United States, and the violation of which could result in the issuance of a federal warrant of arrest, State would have denied issuance or subsequently revoked such person's passport.

Table 1: Summary Information on 15 Passport Recipients with Unpaid Federal Taxes

Case	Unpaid federal tax ^a	Comments
1	\$46.6 million	<ul style="list-style-type: none"> • Individual filed tax returns in the early 2000s showing that no federal taxes were owed during this time period. For one return, the individual received about a \$2 million tax refund. Subsequent IRS tax examinations in the mid-2000s determined that the recipient owed tens of millions of dollars in taxes. • Individual gambled tens of millions of dollars at the same time the recipient did not pay the income taxes. • Individual also owned two luxury vehicles during this time period. • Individual reported tens of millions of dollars in income from a limited liability company in late 2000s income tax return. Individual paid only about a quarter of the millions of taxes owed for that tax return. • Individual was a partial owner of a professional sports team. • Individual filed an offer in compromise, which would have settled the debt for less than \$2 million to be paid over 5 years. IRS rejected the compromise offer. • IRS has filed tax liens. IRS has referred the individual to Treasury for the continuous levy program.
2	\$39.9 million	<ul style="list-style-type: none"> • Individual owes tens of millions of dollars of personal income taxes from 1980s through 2000s. Individual generally did not make any estimated payments or had withholdings made from income during the early 2000s. • Individual has not filed personal income tax returns for 4 years in the 2000s. • Individual was previously convicted for bank fraud in the 1990s. • Financial reports indicated individual had foreign cash transactions of hundreds of thousands of dollars. • Individual has possession of a high-rise condominium overlooking a beach. • IRS has filed tax liens against the individual's property. IRS has referred the individual to Treasury for the continuous levy program. • Individual recently made trips to Turkey, Netherlands, Bahamas, Italy, United Kingdom, France, Japan, Canada, Antigua, and Barbuda.
3	\$4.9 million	<ul style="list-style-type: none"> • Individual is in the oil and gas industry. Individual owed personal income taxes for 4 years during the 2000s. In addition, individual has not filed personal income tax returns to IRS for 2 tax years during the late 2000s. • Individual was assessed hundreds of thousands of dollars in trust fund recovery penalties for failure to pay employment taxes for about 1 year in the late 2000s. • Individual owned several luxury vehicles at the same time the individual owed taxes. Individual had owned a multimillion dollar house which was recently foreclosed by the bank. • IRS has filed tax liens against the individual property. IRS has referred the individual to Treasury for the continuous levy program.

Case	Unpaid federal tax ^a	Comments
4	\$2.0 million	<ul style="list-style-type: none"> • Individual is a personal injury attorney. • Individual significantly underpaid the federal taxes owed for each year since the late 1990s. For example, in 1 year, individual owed over \$400,000 in federal taxes but did not make any federal tax payments during that year. • Individual is the owner of two corporations. For both corporations, IRS records indicate that the individual does not comply with the filing and paying of payroll taxes. Individual was assessed tens of thousands of dollars in trust fund recovery penalties for several years for failure to pay employment taxes in the early 2000s. • IRS has filed tax liens against the individual's property. IRS has referred the individual to Treasury for the continuous levy program. • While owing taxes, the individual owned a sports boat worth tens of thousands of dollars. • Individual made multiple large cash deposits and withdrawals totaling tens of thousands of dollars. • While owing taxes, the individual recently traveled to Canada.
5	\$1.8 million	<ul style="list-style-type: none"> • Individual generally did not make any payments nor had withholdings made from income during the 2000s. Recipient failed to file a tax return for 1 year during the 2000s. • Individual filed an offer in compromise, which would have settled the tax debt for about \$1,000. IRS rejected the compromise offer. IRS records indicate that the recipient used the compromise offer as a means to delay the collection process. • Individual was previously involved in a ponzi scheme. • IRS has filed tax liens against the individual's property. IRS has referred the individual to Treasury for the continuous levy program. • While not paying taxes, the individual took a trip to Canada. In addition, passport recipient told our investigators that he regularly travels to Mexico for personal business. • IRS closed active collection activities against the recipient because IRS records indicate that it cannot locate the taxpayer and assets have not been identified. During the course of our investigation, our investigators were able to identify and locate the individual.
6	\$1.4 million	<ul style="list-style-type: none"> • Individual is an attorney at a law firm. Individual makes hundreds of thousands of dollars per year. In last tax return submitted to IRS in the late 2000s, individual reported about \$300,000 in taxable income. • Individual significantly underpaid the federal taxes owed for each year in the 2000s. For example, in 1 year, individual owed over \$200,000 in federal taxes but made only \$10,000 in federal tax payments during that year. • Individual filed an offer in compromise, which would have settled the tax debt for about \$350,000, to be paid in installments. IRS rejected the compromise offer because the individual's first check was returned for insufficient funds and taxpayer failed to make estimated tax payments during that calendar year. • IRS has filed tax liens against the individual's property. IRS has referred the individual to Treasury for the continuous levy program. • Individual owned a luxury vehicle at the same time the recipient owed taxes. • In the late 2000s, individual resided in Asia.

Case	Unpaid federal tax ^a	Comments
7	\$1.4 million	<ul style="list-style-type: none"> Individual owed personal income taxes for 2 years during the early 2000s. Individual has not filed income tax returns since the mid-2000s. In the mid-2000s, a law enforcement agency seized assets worth millions of dollars based on a drug investigation. IRS has filed tax liens against the individual's property. IRS has referred the individual to Treasury for the continuous levy program. Individual owned a luxury vehicle at the same time the recipient owed taxes. In the mid- to late 2000s, the individual traveled to Canada, Europe, the Caribbean, South America, and Central America while owing taxes.
8	\$1.1 million	<ul style="list-style-type: none"> Individual was assessed hundreds of thousands of dollars in trust fund recovery penalties for failure to pay employment taxes for over 3 years in the early 2000s. Individual gambled tens of thousands of dollars at the same time the recipient did not pay the income taxes. IRS records indicated that individual significantly understated the value of property by about \$500,000 in a filed offer in compromise to IRS. IRS has filed tax liens against the individual's property. IRS has referred the individual to Treasury for the continuous levy program. Individual recently made trips to Mexico while owing federal taxes.
9	\$500,000	<ul style="list-style-type: none"> Individual is a physician who owns a practice. Individual owed personal income taxes during the 1990s and 2000s. According to IRS records, the individual had financial difficulties, in part, due to suspension of medical license. Individual generally did not make any estimated payments nor had withholdings made during the 2000s. Individual did not make any subsequent payment after the taxes were assessed. Individual had a felony conviction for fraudulently obtaining controlled substances. Individual did not file an income tax return for 2008. IRS has filed tax liens against the individual's property. IRS has referred the individual to Treasury for the continuous levy program. IRS records show that IRS has classified the individual's tax debts as currently not collectible because IRS has determined that the individual does not have any assets and does not have the ability to pay the debts. While owing taxes, individual had overseas trips to Europe. Individual recently traveled to the Caribbean, including two cruises from the Caribbean and Canada.
10	\$400,000	<ul style="list-style-type: none"> Individual works for a paralegal business. The individual is also a board member of a nonprofit agency that receives federal government grants. Individual has a history of prior businesses that incurred tax liabilities and then closed only to re-open as a new business or corporation. Individual has submitted several offers in compromise to IRS during the 2000s. IRS rejected each of those offers. IRS has filed tax liens against the individual's property. The individual recently took trips to the Caribbean islands and Europe.

Case	Unpaid federal tax ^a	Comments
11	\$400,000	<ul style="list-style-type: none"> Individual lives overseas. Individual consults with other individuals in creating offshore companies. Individual generally did not make any estimated payments nor had withholdings made from income since the late 1990s. Financial reports indicate that the individual owns foreign bank accounts in Central America and Canada. IRS has filed tax liens against the individual's property. IRS has referred the individual to Treasury for the continuous levy program. Individual recently made trips to Canada, Central America, and Germany.
12	\$300,000	<ul style="list-style-type: none"> Individual currently lives overseas and currently works for the World Bank. Individual has not filed income tax returns in the 2000s. Individual generally did not make any estimated payments nor had withholdings made from their income. IRS has filed tax liens against the individual's property. IRS has referred the individual to Treasury for the continuous levy program.
13	\$100,000	<ul style="list-style-type: none"> Individual is a State contractor. Individual owed personal income taxes for several years during the late 1990s and early 2000s. Individual did not file income tax returns for 2 years in the late 2000s. Individual was assessed thousands of dollars in trust fund recovery penalties for failure to pay employment taxes in the mid- 2000s. IRS found that the individual willfully failed to collect, account for, or pay over to IRS the employees' share of the trust fund taxes. IRS records indicate that the individual has a long history of noncompliance. According to IRS records, individual has been uncooperative and has not made any satisfactory arrangements to satisfy the outstanding tax liability. IRS filed tax liens against the individual's property. IRS has referred the individual to Treasury for the continuous levy program. Individual recently made trips to Middle East, Europe, Africa, and the Caribbean. Individual was also on an international cruise.
14	\$60,000	<ul style="list-style-type: none"> Individual assumed identity of an individual who died in the 1980s. State issued a passport to the individual (referred to as "passport recipient") who assumed the identity of the deceased individual. IRS records also indicate that the passport recipient incurred tax debts using the identity of the deceased individual during the early 2000s. The passport recipient received a tax refund (via refund anticipation loan) of about \$2,500 for a tax year in the early 2000s, including an education credit of about \$400. Subsequently, the passport recipient was assessed additional taxes by IRS after the refund was issued. Passport recipient used a fictitious address on the tax return. Passport recipient has not filed any tax returns subsequent to the tax return mentioned above. Passport recipient used a mail box store for receiving mail for a couple of years. Passport recipient recently traveled to Ghana, Senegal, and France.
15	\$20,000	<ul style="list-style-type: none"> Individual assumed the identity of an individual who died in the 2000s. At the time of death, the deceased individual owed federal taxes. State subsequently issued a passport to the individual who assumed the identity of the deceased individual. IRS records indicate that the SSN of the deceased person is being used. An individual using the deceased person's identity recently traveled to Mexico.

Source: GAO analysis of IRS, State, public, and other records.

Note: Dollar amounts are rounded.

^aUnpaid tax amount as reported by IRS as of July 2010. Unpaid tax amount does include penalty and interest.

In December 2010, we met with IRS to discuss the 25 cases that we investigated and audited to obtain an understanding of IRS's investigative and collection activities performed on each case. Although IRS did not provide detailed investigative and collection activities for each case, IRS officials did broadly discuss certain barriers and limitations in the investigation and collection efforts by the agency for these 25 cases and other individuals and entities that owe taxes. In addition, IRS officials explained the impact 26 U.S.C. § 6103 has on IRS's ability to share information with State. Specifically, IRS officials stated that they cannot inform Department of State of the two individuals who have worked on State contracts or the two deceased individuals we identified through our investigations without the taxpayers' consent. IRS officials stated that 26 U.S.C. § 6103 prevents this disclosure of the deceased individuals even though they may pose security risks to the nation based on the fraudulent acquisition of the passport.¹⁴ IRS officials stated that six of the cases were under criminal investigation or are currently under investigation.

In a December 2010 meeting with IRS officials, we also discussed what IRS and State can do to prevent the issuance of passports to these 25 individuals with federal tax delinquencies. As discussed earlier, State currently cannot deny the issuance of passports to individuals who owe federal taxes, although passports can be denied for other reasons. For State to deny passports for this reason, legislation would need to be passed to provide such authorization and to permit IRS to disclose taxpayer information. If such a federal law were enacted, criteria would need to be established in determining when a tax debt meets the passport restriction requirement. In addition, Congress or the executive branch may need to decide if certain individuals should be exempted from this requirement, such as for national security purposes.

To implement such a restriction, the executive branch may want to use the FPLP as the mechanism or as a model to determine whether an individual owes federal taxes for purposes of passport restrictions. Currently, the Department of Defense (DOD) and Centers for Medicare & Medicaid Services (CMS) periodically send their payment information (e.g., DOD federal contracts payment data and Medicare claims data for physician services, respectively) to FPLP to determine whether those payments should be levied for federal taxes. Treasury electronically compares the

¹⁴According to State, State requested disclosure of the identity and information on these two persons from IRS pursuant to 26 U.S.C. § 6103(i)(3)(A)(i)-(ii).

names and Taxpayer Identification Numbers (TIN) on the payment files to the control names (first four characters of the names) and TINs of the tax debtors. If there is a match and all legal notifications have been made, Treasury notifies DOD and CMS to reduce (or levy) the federal payment to help satisfy the unpaid federal taxes. State could work with IRS and Treasury to develop a similar process to determine if the passports should be issued or not because of federal taxes owed.

IRS officials stated that screening passport applicants for federal tax debts would likely improve tax collections. Such a requirement could serve as an incentive to individuals wishing to obtain passports to comply with their tax obligations, thus reducing the level of tax delinquencies and promoting compliance. IRS officials stated that there may be practical issues that may arise in implementing such a requirement. For example, it will require additional work for IRS to ensure that State adequately safeguards this taxpayer information. State officials indicated that they would like to study any proposed legislation to provide additional authority to deny passports including constitutional, policy, and practical issues that may arise in its application and use.

Conclusion

IRS enforcement of federal tax laws is vital—not only to identify tax offenders—but also to promote broader compliance by giving taxpayers confidence that others are paying their fair share. As federal deficits continue to mount, the federal government has a vital interest in efficiently and effectively collecting the billions of dollars of taxes owed under current law. Federal law already allows the linkage of debt collection with the passport issuance process in certain areas, including for certain outstanding State Department debt and child support enforcement. The question is whether this is a public policy strategy that might have broader application in other areas, such as federal tax debt. If so, legislation would be needed to facilitate screening for outstanding federal tax liability with linkage to the passport issuance process. Such legislation could have the potential to help generate substantial collections of known unpaid federal taxes and increase tax compliance for tens of millions of Americans holding passports. Appropriate criteria and safeguards would need to be developed and applied, such as to ensure individual privacy, minimize undue approval delays, and permit appropriate exemptions. Related programs currently operating can serve as a starting point for such considerations.

Matter for Congressional Consideration

If Congress is interested in pursuing the policy strategy of linking federal tax debt collection to passport issuance as an approach to help reduce the federal deficit and to increase taxpayer compliance with tax laws, it may wish to consider taking steps to enable and require the Secretary of State to screen and prevent individuals who owe federal taxes from receiving passports, to include establishing criteria for specific categories of passport holders and waivers as appropriate. To do this, Congress may wish to ask the Secretary of State and Commissioner of Internal Revenue to jointly study policy and practical issues and develop options for further consideration, including developing appropriate criteria and safeguards.

Agency Comments

We provided a draft of this report to IRS, State, and Department of the Treasury's Financial Management Service (FMS) for their review and comment. IRS, State, and FMS did not provide written comments. State provided technical comments, which we have incorporated as appropriate.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the Secretary of the Treasury, Secretary of State, the Commissioner of Internal Revenue, and other interested parties. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff members have any questions about this report, please contact me at (202) 512-6722 or kutzg@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report.



Gregory D. Kutz
Director
Forensic Audits and Investigative Service

Appendix I: Scope and Methodology

To identify the magnitude of unpaid taxes owed by passport recipients, we requested from the Department of State (State) a list of passport recipients for fiscal year 2008. We also obtained and analyzed Internal Revenue Service (IRS) unpaid assessment data as of September 30, 2008. We matched the passport data to IRS unpaid assessment data using the Social Security number (SSN) field. To avoid overestimating the amount owed by passport recipients, we excluded from our analysis tax debts meeting specific criteria to establish a minimum threshold in the amount of tax debt to be considered when determining whether a tax debt is significant. The criteria we used to exclude tax debts are as follows:

- tax debts that IRS classified as compliance assessments or memo accounts for financial reporting,¹ and
- tax debts of less than \$100.

The criteria above were used to exclude tax debts that might be under dispute or generally duplicative or invalid, and tax debts that were recently incurred. Specifically, compliance assessments or memo accounts were excluded because these taxes have neither been agreed to by the taxpayers nor affirmed by the court, or these taxes could be invalid or duplicative of other taxes already reported. We further excluded tax debts of less than \$100 because we considered them to be de minimis amounts for collecting individuals' debts.

To identify examples of abuse or criminal activity, we selected 25 passport recipients with federal tax debts for detailed audit and investigation. The 25 cases were chosen using a nonrepresentative selection approach based on our judgment, data mining, and a number of other criteria, such as total amount of taxes owed by passport recipients, number of tax years that the passport recipient did not pay all taxes, types of taxes, and location of the tax recipient. While these case studies were among the more egregious and cannot be generalized beyond the cases presented, they serve to illustrate the sizeable amounts of taxes owed by some individuals and the other characteristics of the cases that could extend beyond the tax system, including the use of passports by individuals involved in crimes such as money laundering. We obtained copies of automated tax transcripts and other tax records (for example, revenue officers' notes and certain

¹Under federal accounting standards, unpaid assessments require taxpayer or court agreement to be considered federal taxes receivables. Compliance assessments and memo accounts are not considered federal taxes receivable because they are not agreed to by taxpayers or the courts.

individual tax returns) from IRS, and reviewed these records to exclude passport recipients who had recently paid off their unpaid tax balances and considered other factors before reducing our number of case studies to 25. We performed additional searches of criminal, financial, and public records. We updated the tax debt amount as of July 2010 for these 25 cases, to reflect any additional tax assessments, including interest and penalty, or collections that have occurred.

To determine the extent to which State officials are required to consider tax debts or other criminal activities in the processing of passports, we examined federal law and State regulations. We also made inquiries with State officials on whether State specifically considers tax debts or performs background checks before the passport is issued.

Data Reliability Assessment

To determine the reliability of IRS unpaid assessments data, we relied on the work we performed during our annual audits of IRS's financial statements. While our financial statement audits have identified some data reliability problems associated with the coding of some of the fields in IRS's tax records, including errors and delays in recording taxpayer information and payments, we determined that the data were sufficiently reliable to address this report's objectives.

To determine the reliability of the passport data, we interviewed State officials responsible for those databases about the quality of the data. In addition, we performed electronic testing of the passport database and used the IRS tax assessment file to determine the validity of specific data elements used to perform our work.² Based on our discussions with agency officials and our own testing, we concluded that the data used for this report were sufficiently reliable for our purposes.

We conducted this forensic audit from October 2009 to March 2011 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We conducted our related investigative

²Data validation edits include (1) tests to see if numeric fields contain nonnumeric data, and (2) tests on a value to see if it falls within the range established for the data element.

work in accordance with standards prescribed by the Council of the Inspectors General on Integrity and Efficiency. Initiation of our audit was delayed significantly because of State's refusal to comply with our request for the passport recipient database for over a year. We requested access to the database in September 2008 but did not obtain it until October 2009.

Appendix II: Passport Recipients Owe Federal Taxes

This appendix presents summary information on passport recipients who owe federal taxes associated with 10 of our 25 cases. Table 2 shows the remaining 10 cases that we audited and investigated. As with the 15 cases discussed in the body of this report, we also found abuse and potentially criminal activity related to the federal tax system or other federal laws.

Table 2: Summary Information on 10 Passport Recipients with Unpaid Federal Taxes

Case	Unpaid federal tax ^a	Comments
16	\$31.7 million	<ul style="list-style-type: none"> Individual owed personal income taxes from the late 1990s to mid-2000s. Individual did not file income tax returns since the mid-2000s. IRS collected a small portion of the individual's overdue taxes through the continuous levy program. Individual was indicted for fraud in the mid-2000s. Individual's trial began about a month after State issued passport and individual was convicted about a month later. IRS records indicate that remaining assets are controlled by court. IRS has filed tax liens against the individual's property. IRS has referred the individual to Treasury for the continuous levy program.
17	\$4.7 million	<ul style="list-style-type: none"> Individual was CEO of company that provides consulting on construction projects. Individual owed personal income taxes for 5 years during the 1990s and 2000s. Individual generally did not make any estimated tax payments during the late 2000s. Individual did not make any subsequent payments after the taxes were assessed. IRS levied federal payments issued to the individual through the continuous levy program. According to IRS records, individual offered to pay about \$1.5 million to settle the debts. IRS has filed tax liens against the individual's property. IRS has referred the individual to Treasury for the continuous levy program. Individual recently made trips to Mexico, Canada, Spain, and United Kingdom.
18	\$2.8 million	<ul style="list-style-type: none"> Individual was assessed hundreds of thousands of dollars in trust fund recovery penalties for failure to pay employment taxes for over 7 years in the 2000s. Individual was recently sentenced for larceny and must pay a restitution to cover the stolen funds. IRS has filed tax liens against the individual's property. IRS has referred the individual to Treasury for the continuous levy program. IRS has collected over \$1,000 through the continuous levy program. Individual recently made trips to Australia, Spain, and the Caribbean.
19	\$1.6 million	<ul style="list-style-type: none"> Individual was a CEO of a medical company. Individual was assessed tens of thousands of dollars in trust fund recovery penalties for several years for failure to pay employment taxes in the early 2000s. In addition, individual has not filed an income tax return since the mid-2000s. In late 2000s, individual was indicted for Medicare fraud, about a month after State issued the passport to the recipient. The individual later pled guilty to the fraud. While owing taxes, individual owned a luxury vehicle and also owns a multimillion dollar house. IRS has filed tax liens against the individual's property. IRS has referred the individual to Treasury for the continuous levy program.

Appendix II: Passport Recipients Owe Federal Taxes

Case	Unpaid federal tax^a	Comments
20	\$1.3 million	<ul style="list-style-type: none"> Individual is a self-employed physician. Individual also receives retirement payments from the federal government. Individual generally withheld less than \$1,000 for taxes while owing tens of thousands in taxes during the 2000s. Recipient failed to file a tax return for 3 years during the early 2000s. IRS has collected tens of thousands of dollars through the continuous levy program. At the same time the individual owed taxes, the individual owned luxury vehicles and an antique car. Individual also purchased a house for about \$2 million and a yacht for over \$150,000. Individual also purchased an investment property for about \$1.5 million. IRS has filed tax liens against the individual's property. IRS has referred the individual to Treasury for the continuous levy program.
21	\$500,000	<ul style="list-style-type: none"> Individual is a retired physician. Individual owed personal income taxes for 2 years during the early 2000s. IRS has filed tax liens against the individual's property. IRS has referred the individual to Treasury for the continuous levy program. IRS is levying the individual's Social Security Administration payments for hundreds of dollars a month. Individual reported capital gains of over \$150,000 in the late 2000s. IRS has classified the tax debts as currently not collectible. Individual recently made trips to Asia.
22	\$400,000	<ul style="list-style-type: none"> Individual works in the petroleum industry in the Middle East. Individual has not filed individual income tax returns to IRS in the 2000s. The tax debt amount is based on substitute tax returns prepared by IRS for the early 2000s tax years. Financial reports indicate that the individual owns foreign bank accounts in the Middle East. Individual recently made trips to the Middle East, United Kingdom, and the Netherlands.
23	\$300,000	<ul style="list-style-type: none"> Individual is a consultant who currently lives outside of the country. Individual generally did not make any estimated payments nor had withholding made from income since the mid-1990s. Individual did not make any subsequent payments after the taxes were assessed. IRS has filed tax liens against the individual's property. IRS has referred the individual to Treasury for the continuous levy program. IRS has classified the tax debts as currently not collectible.
24	\$200,000	<ul style="list-style-type: none"> Individual is a Department of Transportation employee. Individual told our investigators that a passport may be needed for promotion opportunities. Individual owed personal income taxes for a couple of years during the mid-2000s while working in the private sector. IRS has filed tax liens against the individual's property.
25	\$200,000	<ul style="list-style-type: none"> Individual was an employee of a federal contractor and had previously worked on contracts with State and the Department of Defense. Individual owed personal income taxes for 3 years during the early 2000s. Individual did not file income tax returns for 6 years during the early and mid-2000s. IRS has referred the individual to Treasury for the continuous levy program. Individual recently made trips to Mexico, Europe, and the Middle East.

Source: GAO analysis of IRS, State, public, and other records.

Note: Dollar amounts are rounded.

^aUnpaid tax amount as reported by IRS as of July 2010. Unpaid tax amount does include penalty and interest.

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