

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



Review of the Independent Office of Appeals Collection Due Process Program

August 18, 2022

Report Number: 2022-10-043

Why TIGTA Did This Audit

This audit was initiated because TIGTA is statutorily required to determine whether the IRS complied with select provisions of 26 United States Code §§ 6320 and 6330 when taxpayers exercised their right to appeal the filing of a Notice of Federal Tax Lien or the issuance of a Notice of Intent to Levy.

Impact on Tax Administration

The Collection Due Process hearing provisions are designed to give taxpayers an opportunity for an independent review to ensure that the levy action that has been proposed or the Notice of Federal Tax Lien that has been filed is warranted and appropriate. An effective process is necessary to ensure that statutory requirements are met and taxpayers' rights are protected.

What TIGTA Found

The IRS Independent Office of Appeals (Appeals) properly classified Collection Due Process and Equivalent Hearing requests and provided taxpayers one hearing per tax period with an impartial hearing officer. In addition, Appeals hearing officers verified applicable law or administrative procedures were met, allowed taxpayers to raise issues at the hearing related to the unpaid tax, and made a determination on the proposed levy and/or filing of the Notice of Federal Tax Lien after considering the collection action balances efficient tax collection with the taxpayer's concern that the collection action be no more intrusive than necessary.

Similar to prior audits, TIGTA identified incorrect Collection Statute Expiration Date (CSED) posting errors in 18 (20 percent) of the 91 sampled taxpayer cases. For example, taxpayer accounts had CSED errors due to incorrectly input CSED suspension start and stop dates. In some cases, the IRS incorrectly extended the time period, allowing the IRS additional time to collect delinquent taxes. In other cases, the IRS incorrectly decreased the time to collect delinquent taxes. Based on our sample results, TIGTA estimates that 3,233 and 2,586 taxpayer accounts had their CSEDs overstated and understated, respectively, during Fiscal Year 2021.

What TIGTA Recommended

TIGTA recommended that the Chief, IRS Independent Office of Appeals, should: 1) reinforce the existing procedures for Appeals personnel to ensure that the correct CSEDs are posted to taxpayer accounts and 2) update the inaccurate suspension dates for the 18 taxpayer cases that TIGTA identified with CSED errors.

Management agreed with our recommendations and plans to reinforce existing procedures for Appeals personnel to ensure that the correct CSEDs are posted to taxpayer accounts. Management also agreed to initiate corrective actions for the 18 taxpayer accounts with incorrect CSEDs.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20024

August 18, 2022

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

Heather Hill

FROM: Heather M. Hill
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Review of the Independent Office of Appeals
Collection Due Process Program (Audit # 202210001)

This report presents the results of our review of the Independent Office of Appeals Collection Due Process Program. The overall objective of this audit was to determine whether the Internal Revenue Service complied with select provisions of 26 United States Code §§ 6320 and 6330 when taxpayers exercised their right to appeal the filing of a Notice of Federal Tax Lien or the issuance of a Notice of Intent to Levy. This review is part of our Fiscal Year 2022 Annual Audit Plan and addresses the major management and performance challenge of *Protecting Taxpayer Rights*.

Management's complete response to the draft report is included as Appendix VI.

Copies of this report are also being sent to the Internal Revenue Service managers affected by the report recommendations. If you have any questions, please contact me or Bryce Kisler, Acting Assistant Inspector General for Audit (Management Services and Exempt Organizations).

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Background

Per the Internal Revenue Code (I.R.C.), if any person liable to pay any tax assessments neglects or refuses to pay the unpaid tax after notice and demand, the Internal Revenue Service (IRS) has the authority to attach a claim to a taxpayer's assets (lien) by filing a Notice of Federal Tax Lien (NFTL).¹ Along with the filing of an NFTL, the IRS is required to notify the taxpayer of the filing of a lien as well as the taxpayer's right to request a hearing.² The IRS accomplishes this by sending the taxpayer a Letter 3172, *Notice of Federal Tax Lien Filing and Your Rights to a Hearing under IRC 6320*.

The IRS also has the authority to levy a taxpayer's property to satisfy a tax liability.³ By law, under most circumstances, no levy may be made on any property or right to property of any person unless the IRS has notified such person in writing of their right to a hearing before such a levy is made.⁴ Such notice shall be required only once for the taxable period to which the unpaid tax applies.⁵ The IRS notifies the taxpayer of its intent to levy by sending the taxpayer a Letter 11, *Final Notice of Intent to Levy and Notice of Your Right to a Hearing*, or a Letter 1058, *Final Notice – Notice of Intent to Levy and Notice of Your Right to a Hearing*.

In January 1996, Congress amended the I.R.C. to modify collection activity provisions that allowed taxpayers additional rights under lien and levy actions by the IRS.⁶ Congress subsequently enacted the IRS Restructuring and Reform Act of 1998,⁷ which gave taxpayers the right to a hearing with the IRS Independent Office of Appeals (Appeals) under I.R.C. Collection Due Process (CDP) provisions. Appeals is independent of other IRS offices, and its mission is to resolve tax controversies, without litigation, on a basis that is fair and impartial to both the Federal Government and the taxpayer.

The CDP hearing provisions were designed to give taxpayers an opportunity for an independent review to ensure that the levy action that has been proposed or the NFTL that has been filed is warranted and appropriate. An effective process is necessary to ensure that statutory requirements are met and taxpayers' rights are protected. Taxpayers have 30 calendar days after the date on the Notice of Intent to Levy to request a levy hearing. For NFTLs, the IRS

¹ The I.R.C. is the body of law that codifies all Federal tax laws, including income, estate, gift, excise, alcohol, tobacco, and employment taxes. These laws constitute Title 26 of the United States Code (U.S.C.). The U.S.C. is a consolidation and codification by subject matter of the general and permanent laws of the United States.

² The NFTL is a public notification filed with designated State and local jurisdictions. The purpose of filing the NFTL publicly is to inform certain third parties and establish the Government's right of priority against taxpayer creditors.

³ 26 U.S.C. § 6331.

⁴ 26 U.S.C. § 6330(f). Under certain circumstances, the IRS will not notify the taxpayer before the levy is made or suspend levy actions during a CDP or Equivalent Hearing. Exceptions may involve tax collection in jeopardy situations, State income tax levies, Federal contractor levies, or disqualified employment tax levies.

⁵ 26 U.S.C. § 6330.

⁶ Taxpayer Bill of Rights 2, Pub. L. No. 104-168, 110 Stat. 1452 (1996) (codified as amended in scattered sections of 26 U.S.C.).

⁷ Pub. L. No. 105-206, 112 Stat. 685.

notifies taxpayers by certified letter that a lien has been filed. Taxpayers then have five business days plus 30 calendar days to request a lien hearing.

Taxpayers who timely request a CDP hearing are generally granted a hearing.⁸ When a CDP hearing request is received, the IRS suspends the 10-year period it has to collect the taxes owed until the date the Appeals determination becomes final. If the taxpayer does not agree with Appeals' determination from the CDP hearing, they may petition the U.S. Tax Court to request judicial review of the determination. In addition, if the taxpayer timely requests a CDP hearing, levy actions on the assessments that are the subject of the CDP notice must be suspended during the appeal period and while any court proceedings are pending unless an exception applies.

Taxpayers who do not timely request a CDP hearing within the allotted time frames may request an Equivalent Hearing with Appeals, but only if specifically requested. Late-filed CDP requests will not automatically be processed as Equivalent Hearings. The taxpayer must request an Equivalent Hearing within one year after the issuance of the Notice of Intent to Levy and one year plus five business days after the estimated filing date of the NFTL. If the taxpayer request for a CDP hearing is not timely and they request an Equivalent Hearing, the law does not prohibit the levying of a taxpayer's property, the collection statute is not suspended, and the taxpayer generally cannot petition the U.S. Tax Court if they disagree with Appeals' decision.⁹ For example, collection action may not be suspended when the collection of tax is in jeopardy.

The Notice of Intent to Levy or the lien notice informs the taxpayer of their legal right to appeal the intended levy or filed NFTL by requesting a CDP hearing.¹⁰

Taxpayers wishing to request a hearing are instructed to complete Form 12153, *Request for a Collection Due Process or Equivalent Hearing*, and send their request to the Small Business/Self-Employed Division's Collection function office that initiated the compliance action. Taxpayers are to send or deliver the CDP hearing request to the IRS office and address as directed on the CDP notice.

Form 12153 is used by taxpayers when requesting a CDP Hearing.

After a hearing request is received, Collection function employees can continue to work with the taxpayer to resolve their issues for up to 90 calendar days. If the Collection function employee cannot resolve the taxpayer's concerns, the Collection function will send the hearing request to Appeals. However, the Collection function can refer a hearing request to Appeals immediately if it believes resolution of the taxpayer's concerns is unlikely or when directed by the taxpayer to do so.

Upon receipt in Appeals, the hearing request is assigned to an Appeals hearing settlement officer (hereafter referred to as a hearing officer). Appeals will then issue a contact letter acknowledging receipt of the request for the CDP or Equivalent Hearing, which provides the

⁸ A hearing request may not always be granted. For example, if the entire CDP request is frivolous or reflects a desire to delay, the taxpayer is not entitled to a hearing.

⁹ The taxpayer is not entitled to seek judicial review of Appeals' decision in an Equivalent Hearing case unless they raise the specific issue of spousal relief under I.R.C. § 6015 or abatement of interest under I.R.C. § 6404(h) or they question the timeliness of the request for a CDP hearing.

¹⁰ See Appendix III for details of the deadlines to request a CDP hearing after receipt of a lien or levy notice.

taxpayer the opportunity to discuss with Appeals the reasons for disagreement with the collection action or to discuss alternatives to the collection action.¹¹

At the conclusion of a CDP or Equivalent Hearing, Appeals will generally issue a closing letter to the taxpayer stating whether the disputed lien or levy action is sustained.¹² For CDP hearings, the closing letter is known as a Notice of Determination Letter.¹³ For Equivalent Hearings, the closing letter is known as a Decision Letter.¹⁴ Appeals will issue additional closing letters based on different hearing resolutions.¹⁵

The Treasury Inspector General for Tax Administration (TIGTA) is required to determine annually whether the IRS complied with legal guidelines and procedures for the filing of an NFTL or a Notice of Intent to Levy and the right of the taxpayer to appeal these actions.¹⁶ This is our 22nd annual audit of taxpayer appeal rights.¹⁷

Results of Review

Appeals Complied With Most Collection Due Process Case Requirements

Our review of a statistically valid stratified sample of 91 of the 28,667 CDP and Equivalent Hearing cases closed in Fiscal Year (FY) 2021 found that Appeals complied with most of the I.R.C. and Internal Revenue Manual 8.22.4, *Collection Due Process Appeals Program* (May 12, 2022), requirements for processing hearing requests. The specific requirements included:

- Correctly classifying CDP or Equivalent Hearing requests and following established procedures for determining timeliness.
- Verifying that the taxpayer was provided only one hearing for the tax period related to the unpaid tax specified in the lien/levy notice.
- Ensuring that the taxpayer was provided with an impartial hearing officer or waived this requirement and included a statement in the case file attesting to the hearing officer's impartiality.
- Attesting in the case file documentation that the hearing officer obtained verification that the requirements of all applicable law or administrative procedures were met.
- Documenting in the case files that the taxpayer was allowed to raise issues at the hearing relating to the unpaid tax or the proposed lien or levy action, including appropriate

¹¹ Letter 4837, *Substantive Contact Uniform Acknowledgement Letter*, includes significant information on the impartiality status of the hearing officer.

¹² If the taxpayer withdraws their request for a hearing and a contact letter has not been issued, Appeals will not issue a closing letter.

¹³ Letter 3172.

¹⁴ Letter 3210, *Decision Letter on Equivalent Hearing, under IRC Sections 6320 or 6330 of the Internal Revenue Code*.

¹⁵ See Appendix IV for details on Appeals closing letters.

¹⁶ 26 U.S.C. § 7803(d)(1)(A)(iii) and (iv).

¹⁷ See Appendix V for a listing of TIGTA's most recent CDP audit reports.

spousal defenses, challenges to the appropriateness of collection activities, offers of collection alternatives, or the underlying liability.

- Documenting in the case files that the hearing officer made a determination after considering any proposed collection action that balances efficient tax collection with the taxpayer's legitimate concern that any collection action be no more intrusive than necessary.

However, similar to prior audits, we identified 18 taxpayer cases that had the incorrect Collection Statute Expiration Dates (CSED) posted to the taxpayers' accounts, which violates the requirements of 26 United States Code (U.S.C.) §§ 6320(c) and 6330(e)(1). Based on our sample results, we estimate that 3,233 and 2,586 taxpayer accounts had their CSEDs overstated and understated, respectively, during FY 2021.¹⁸

The suspension of the CSED continues to be an issue

We continue to identify errors related to the suspension of the CSED on taxpayer accounts. We found that 18 (20 percent) of the 91 cases reviewed had an incorrect CSED. In our prior year review, we identified 19 percent of cases had CSED errors (15 taxpayer accounts from a sample of 81). The CSED is the expiration of the time period established by law to collect taxes. The CSED is normally 10 years from the date of the tax assessment. Once a liability is assessed, the statute of limitations for collection begins to run. The expiration of the collection statute ends the Federal Government's right to pursue collection of a liability. When a request for a CDP hearing is timely received, the IRS suspends the CSED from the receipt date of the CDP hearing request until the date the Appeals determination is made final or the date the IRS receives the taxpayer's withdrawal request.¹⁹ For this review, we identified:

- 10 CDP cases had the CSED incorrectly extended. As a result, the IRS has more time to collect delinquent taxes than it was authorized. Additional collection activity creates an unnecessary burden on the taxpayer. Based on our sample results, we estimate that the IRS may have improperly extended the CSED for 3,233 of 28,667 CDP cases closed in FY 2021.²⁰
- 8 CDP cases had the CSED incorrectly shortened. As a result, the IRS has less time to collect any outstanding balance due from the taxpayer than it was authorized. Based on our sample results, we estimate that the IRS may have inadvertently shortened the CSED for 2,586 of 28,667 CDP cases closed in FY 2021.²¹

¹⁸ See Appendix II for details on how we determined the estimated number of taxpayer accounts affected.

¹⁹ After Appeals issues Letter 3193, *Notice of Determination Concerning Collection Actions Under Sections 6320 and 6330*, the taxpayer may choose to petition the U.S. Tax Court to contest the IRS and/or Appeals determination. The Appeals CDP hearing remains open until the Tax Court judge enters a final decision.

²⁰ Our sample was selected using a 95 percent confidence interval, a 7 percent error rate, and a ± 5 percent precision factor. When projecting the results of our statistical sample, we are 95 percent confident that the actual total is between 1,356 and 5,109 taxpayers.

²¹ Our sample was selected using a 95 percent confidence interval, a 7 percent error rate, and a ± 5 percent precision factor. When projecting the results of our statistical sample, we are 95 percent confident that the actual total is between 882 and 4,290 taxpayers.

The suspension of the CSED is systemically controlled by transaction codes on the Integrated Data Retrieval System.²² One code is entered to start the suspension, and another code is entered to stop the suspension and restart the statute period. Generally, the code to suspend the collection statute along with the date the suspension should begin is input by the Collection function. However, in certain instances, Appeals personnel are responsible for inputting the suspension code and start date. Appeals has established procedures to ensure that the suspension codes are input properly. For example, Appeals personnel are required to verify that the statute was suspended on the Integrated Data Retrieval System with the correct closing code within 30 calendar days of receipt of a case. Upon completion of the CDP hearing, Appeals is responsible for entering the code to remove the suspension of the statute period along with the hearing completion date. The Integrated Data Retrieval System will systemically recalculate the CSED based on the dates entered for the two codes (which generally reflect the length of the Appeals hearing or the exhaustion of any rights to appeal following judicial review). Appeals management agreed with all of the errors we identified and stated that the CSED errors were a result of human error.

The Chief, IRS Independent Office of Appeals, should:

Recommendation 1: Reinforce the existing procedures for Appeals personnel to ensure that the correct CSEDs are posted to taxpayer accounts.

Management's Response: The IRS agreed with this recommendation and will reinforce existing procedures for Appeals personnel to ensure that the correct CSEDs are posted to taxpayer accounts.

Recommendation 2: Update the inaccurate suspension dates for the 18 taxpayer cases that we identified with CSED errors.

Management's Response: The IRS agreed with this recommendation. Appeals has reviewed the 18 taxpayer accounts identified in this report and will initiate the necessary corrective actions.

²² IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this audit was to determine whether the IRS complied with select provisions of 26 U.S.C. §§ 6320 and 6330 when taxpayers exercised their right to appeal the filing of an NFTL or the issuance of a Notice of Intent to Levy. To accomplish our objective, we performed the following audit steps:

- Selected a stratified random sample of 102 from the 28,667 CDP and Equivalent Hearing cases closed during FY 2021.¹ TIGTA's contracted statistician assisted with developing the sampling plan and projections. We were unable to secure the entire selected sample of 102 closed cases because the Federal Records Centers were operating at limited capacity during our fieldwork due to the Coronavirus Disease 2019 pandemic.² However, we secured 91 of the 102 originally sampled closed cases as the case files or case information were at locations outside of the Federal Records Centers or maintained electronically by Appeals. We randomly selected, received, and reviewed:
 - 76 of the 24,568 closed CDP cases.
 - 15 of the 4,099 closed Equivalent Hearing cases.
- Determined whether Appeals complied with applicable provisions of 26 U.S.C. §§ 6320 and 6330 and the Internal Revenue Manual by confirming:
 - Taxpayer CDP and Equivalent Hearing requests were classified correctly [26 U.S.C. §§ 6320(a)(3)(B) and 6330(a)(3)(B)] according to procedures established in Internal Revenue Manual 8.22.4.
 - The CSED posted to the taxpayer's account is accurate [26 U.S.C. §§ 6320(c) and 6330(e)(1)].
 - The taxpayer was provided only one hearing for the tax period related to the unpaid tax specified in the lien and/or levy notice [26 U.S.C. §§ 6320(b)(2) and 6330(b)(2)].
 - The taxpayer was provided with an impartial hearing officer or waived this requirement [26 U.S.C. §§ 6320(b)(3) and 6330(b)(3)] by reviewing the case file to ensure that it contains a statement by the hearing officer confirming impartiality or a waiver.
 - The hearing officer obtained verification that the requirements of all applicable laws or administrative procedures were met [26 U.S.C. § 6330(l)(1)].

¹ Our sample size was determined using a 95 percent confidence interval, a 7 percent error rate, and a ± 5 percent precision factor. Our sample was stratified based on the type of case (*i.e.*, CDP and Equivalent Hearing). We used a random sample in order to support a statistically valid projection to the population of cases if exceptions were identified during the review.

² The National Archives and Records Administration operates a system of Federal Records Centers for the economical storage of, and access to, noncurrent records of the Federal Government.

- The taxpayer was allowed to raise issues at the hearing relating to the unpaid tax or the proposed lien or levy action, including appropriate spousal defenses, challenges to the appropriateness of collection activities, offers of collection alternatives, or the underlying liability [26 U.S.C. §§ 6320(c) and 6330(c)(2)].
- The hearing officer made a determination after considering any proposed collection action that balances efficient tax collection with the taxpayer's legitimate concern that any collection action be no more intrusive than necessary [26 U.S.C. §§ 6320(c) and 6330(c)(3)].

Performance of This Review

This review was performed with information obtained from the Appeals office in Washington, D.C., during the period November 2021 through June 2022. We conducted this performance audit 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Major contributors to the report were Bryce Kisler, Acting Assistant Inspector General for Audit (Management Services and Exempt Organizations); Glen J. Rhoades, Director; Melinda H. Dowdy, Audit Manager; and Yasmin B. Ryan, Lead Auditor.

Validity and Reliability of Data From Computer-Based Systems

For this review, we relied on data obtained from the Appeals Centralized Database System.³ This file is maintained at TIGTA's Data Center Warehouse.⁴ Before relying on the data, we evaluated their sufficiency and reliability to ensure that the data field descriptions were accurately stated. In addition, we assessed the appropriateness of data within the requested fields and compared population totals to information obtained from Appeals officials. We determined that the data were sufficiently reliable for purposes of this report.

Internal Controls Methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: the policies and procedures in the CDP program and the IRS policies and procedures for 1) classifying CDP and Equivalent Hearing cases, 2) ensuring that hearing officers met the criteria specified in select provisions of 26 U.S.C. §§ 6320 and 6330, and 3) reviewing applicable computer codes on the Integrated Data Retrieval System for CDP and Equivalent Hearing cases. We evaluated these controls by

³ An application used by employees in the Office of Appeals to create, maintain, and close an Appeals case inventory item throughout its life cycle.

⁴ A secured centralized storage of IRS database files used to maintain critical historical data that have been extracted from operational data storage and transformed into formats accessible to TIGTA employees.

Review of the Independent Office of Appeals Collection Due Process Program

selecting a statistical stratified sample of CDP and Equivalent Hearing cases, reviewing closed case file documentation, and confirming exceptions with Appeals officials.

Appendix II

Outcome Measures

This appendix presents detailed information on the measurable impact that our recommended corrective action will have on tax administration. These benefits will be incorporated into our Semiannual Report to Congress.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 3,233 taxpayers who had an incorrect CSED posted to their accounts that improperly extended the amount of time the IRS has to legally collect delinquent taxes (see Recommendation 1).

Methodology Used to Measure the Reported Benefit:

We reviewed a statistically valid stratified sample of 91 CDP and Equivalent Hearing cases closed in FY 2021. We identified 10 CDP and Equivalent Hearing cases for which the IRS incorrectly computed the CSED, improperly allowing the IRS additional time to legally collect delinquent taxes. We estimated that 11 percent of the 28,667 taxpayer cases closed in FY 2021 had an incorrect CSED posted to taxpayer records. TIGTA's contracted statistician calculated these error rate projections and applied them over the total population size of 28,667 closed CDP and Equivalent Hearing cases.¹

Type and Value of Outcome Measure:

- Increased Revenue – Potential; 2,586 taxpayers who had an incorrect CSED posted to their accounts that inadvertently shortened the amount of time the IRS has to legally collect delinquent taxes (see Recommendation 1).

Methodology Used to Measure the Reported Benefit:

We reviewed a statistically valid stratified sample of 91 CDP and Equivalent Hearing cases closed in FY 2021. We identified eight CDP and Equivalent Hearing cases for which the IRS incorrectly computed the CSED, allowing the IRS less time to legally collect delinquent taxes. This may result in a loss of revenue to the Federal Government. We estimated that 9 percent of the 28,667 taxpayer cases closed in FY 2021 had an incorrect CSED posted to taxpayer records. TIGTA's contracted statistician calculated these error rate projections and applied them over the total population size of 28,667 closed CDP and Equivalent Hearing cases.²

¹ Our sample was selected using a 95 percent confidence interval, a 7 percent error rate, and a ± 5 percent precision factor. When projecting the results of our statistical sample, we are 95 percent confident that the actual total number is between 1,356 and 5,109 taxpayer accounts.

² Our sample was selected using a 95 percent confidence interval, a 7 percent error rate, and a ± 5 percent precision factor. When projecting the results of our statistical sample, we are 95 percent confident that the actual total number is between 882 and 4,290 taxpayer accounts.

Appendix III

Time Periods for Collection Due Process and Equivalent Hearings

Taxpayers must appeal within certain deadlines to qualify for either a CDP hearing or an Equivalent Hearing, depending on whether the taxpayer is appealing a proposed levy or a filed NFTL.¹

CDP Deadlines

- Lien Notice – A request for a CDP hearing for an NFTL filing must be postmarked by the date indicated in the Letter 3172.
- Levy Notice – A request for a CDP hearing for a levy must be postmarked within 30 calendar days after the date of the Letter 11 or Letter 1058.

Equivalent Hearing Deadlines

Taxpayers who miss the deadline for a CDP hearing may request an Equivalent Hearing within the following time periods:

- Lien Notice – one year plus five business days from the NFTL filing date indicated in the lien notice.
- Levy Notice – one year from the date of the levy notice.

Timeliness Considerations

Any written request for a CDP hearing should be filed at the address indicated on the notice. If the request is not sent to the correct address, it must be received by the correct office within the 30–calendar-day period in order to be timely.

Source: Publication 1660, Collection Appeal Rights (Rev. 07-2018).

¹ Form 12153 explains the deadlines for requesting a CDP hearing or an Equivalent Hearing. Regulations also specify that the written request for a CDP hearing must be sent, or hand delivered (if permitted), to the IRS office and address as directed on the CDP Notice (26 C.F.R. § 301.6330–1, Q C-6, Nov. 16, 2006).

Appendix IV

Closing Notices for Collection Due Process and Equivalent Hearings

At the conclusion of a hearing, Appeals provides the taxpayer a letter with the hearing officer's findings, agreements reached with the taxpayer, any relief provided to the taxpayer, and any actions the taxpayer or the IRS are required to take.

- For a CDP case, the taxpayer receives a Letter 3193, *Notice of Determination Concerning Collection Actions Under Sections 6320 and 6330*, which provides an explanation of the right to a judicial review. If the taxpayer disagrees with the Appeals decision, they may petition the tax court.
- For an Equivalent Hearing case, the taxpayer receives a Letter 3210. If the taxpayer disagrees with the Appeals decision in an Equivalent Hearing, they may not petition the tax court.
- For both applicable CDP and Equivalent Hearing cases, the taxpayer may receive:
 - Form 12257, *Summary Notice of Determination, Waiver of Right to Judicial Review of a Collection Due Process Determination, Waiver of Suspension of Levy Action, and Waiver of Periods of Limitation in Section 6330(e)(1)*, and Letter 4382, *Form 12257 Closing Letter*, which are applicable when the taxpayer:
 - Agrees with Appeals.
 - Waives the right to a judicial review.
 - Waives the suspension of collection action.
 - Form 12256, *Withdrawal of Request for Collection Due Process or Equivalent Hearing*, and Letter 4383, *CDP/Equivalent Hearing Withdrawal Acknowledgement*, which are applicable when the taxpayer:
 - Has reached a resolution with the IRS regarding the tax and tax periods.
 - Is otherwise satisfied that a hearing with Appeals is no longer needed.
 - Letter 5145, *Agreed Equivalent Hearing Closing Letter*, which is applicable when the taxpayer:
 - Has agreed with the Equivalent Hearing case decision.
 - Has not raised any issues with the timeliness of the hearing request.¹

¹ As of August 2013, Appeals created Letter 5145 to be used for Equivalent Hearing cases for which the taxpayer and Appeals reach an agreement.

Appendix V

Recent Mandatory Collection Due Process Audit Reports

Recent TIGTA audits of the Appeals CDP program performed during FYs 2016 through 2021.

- **FY 2016** – TIGTA, Report No. 2016-10-064, *The Office of Appeals Has Improved Compliance Within the Collection Due Process Program* (Aug. 2016).
- **FY 2017** – TIGTA, Report No. 2017-10-055, *Review of the Office of Appeals Collection Due Process Program* (Sept. 2017).
- **FY 2018** – TIGTA, Report No. 2018-10-054, *Review of the Office of Appeals Collection Due Process Program* (Sept. 2018).
- **FY 2019** – TIGTA, Report No. 2019-10-058, *Review of the Office of Appeals Collection Due Process Program* (Sept. 2019).
- **FY 2020** – TIGTA, Report No. 2020-10-054, *Review of the Independent Office of Appeals Collection Due Process Program* (Aug. 2020).
- **FY 2021** – TIGTA, Report No. 2021-10-049, *Review of the Independent Office of Appeals Collection Due Process Program* (Aug. 2021).

Appendix VI

Management's Response to the Draft Report



CHIEF, INDEPENDENT OFFICE
OF APPEALS

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

Date: August 2, 2022

MEMORANDUM FOR HEATHER M. HILL
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Andrew J. Keyso Jr. Digitally signed by Andrew J. Keyso Jr.
Date: 2022.08.02 10:34:21 -0400'
Chief, IRS Independent Office of Appeals

SUBJECT: Draft Report – Fiscal Year 2022 – Review of the
Office of Appeals Collection Due Process Program
(Audit #202210001)

Thank you for the opportunity to review and comment on the draft report of the Collection Due Process program audit. We agree with your recommendations and outcome measures. Please see our attached response.

If you have any questions, please have a member of your staff contact Steven M. Martin, Director, Case and Operations Support at (202) 317-4150.

Attachment

Attachment

Recommendation 1:

The Chief, Appeals, IRS Independent Office of Appeals, should reinforce the existing procedures for Appeals personnel to ensure that the correct CSEDs are posted to taxpayer accounts.

Proposed Corrective Action:

The IRS Independent Office of Appeals agrees with this recommendation. We will reinforce the existing procedures for Appeals personnel to ensure that the correct CSEDs are posted to taxpayer accounts.

Implementation Date: June 15, 2023

Responsible Official: Director, IRS Independent Office of Appeals Case and Operations Support

Recommendation 2:

The Chief, IRS Independent Office of Appeals, should update the inaccurate suspension dates for the 18 taxpayer cases that we identified with CSED errors.

Proposed Corrective Action:

The IRS Independent Office of Appeals agrees with this recommendation. Appeals has reviewed the 18 taxpayer accounts identified in this report and will initiate the necessary corrective actions.

Implementation Date: June 15, 2023

Responsible Official: Director, IRS Independent Office of Appeals Case and Operations Support

Outcome Measure 1:

Taxpayer Rights and Entitlements – Potential; 3,233 taxpayers who had an incorrect CSED posted to their accounts that improperly extended the amount of time the IRS has to legally collect delinquent taxes (see Recommendation 1).

Response:

The IRS Independent Office of Appeals agrees with this outcome measure.

Outcome Measure 2:

Increased Revenue–Potential; 2,586 taxpayers who had an incorrect CSED posted to their accounts that inadvertently shortened the amount of time the IRS has to legally collect delinquent taxes (see Recommendation 1).

Response:

The IRS Independent Office of Appeals agrees with this outcome measure.

Appendix VII

Abbreviations

CDP	Collection Due Process
CSED	Collection Statute Expiration Date
FY	Fiscal Year
I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service
NFTL	Notice of Federal Tax Lien
TIGTA	Treasury Inspector General for Tax Administration
U.S.C.	United States Code



**To report fraud, waste, or abuse,
call our toll-free hotline at:**

(800) 366-4484

By Web:

www.treasury.gov/tigta/

Or Write:

Treasury Inspector General for Tax Administration

P.O. Box 589

Ben Franklin Station

Washington, D.C. 20044-0589

Information you provide is confidential, and you may remain anonymous.