

# TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



## Review of the IRS Independent Office of Appeals Collection Due Process Program

July 21, 2023

Report Number: 2023-10-038

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

**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.

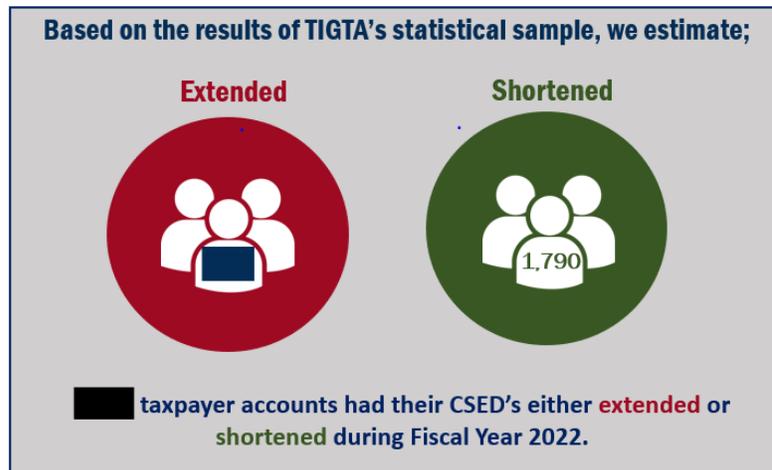
**Impact on Tax Administration**

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 informed taxpayers that Collection Due Process and Equivalent Hearings were conducted by an impartial hearing officer. 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, the filing of the Notice of Federal Tax Lien, or both after considering the collection action balances efficient tax collection with the taxpayer's concern that the collection action be no more intrusive than necessary.

However, TIGTA reviewed a statistically valid stratified sample of 106 cases and identified that Appeals did not always classify taxpayer requests properly or provide only one hearing with respect to the taxable period related to the unpaid tax. In addition, similar to prior audits, TIGTA identified incorrect Collection Statute Expiration Date (CSED) posting errors in [REDACTED] ( [REDACTED] percent) of the 106 sampled taxpayer cases in which the IRS either incorrectly extended the CSED, allowing the IRS additional time to collect the delinquent taxes; or incorrectly shortened the CSED, resulting in the IRS having less time to collect the delinquent taxes. Based on our sample results, TIGTA estimates that [REDACTED] and 1,790 taxpayer accounts had their CSEDs incorrectly extended and shortened, respectively, during Fiscal Year 2022.



Because our prior year's review included a still open recommendation to reinforce the procedures for Appeals personnel to ensure that the correct CSEDs are posted to taxpayer accounts, TIGTA is not making any further recommendations related to this issue in this year's report.

**What TIGTA Recommended**

TIGTA recommended that the Chief, IRS Independent Office of Appeals, should update the inaccurate suspension dates for the [REDACTED] taxpayer cases that TIGTA identified with CSED errors.

The IRS agreed with our recommendation and has initiated corrective actions for the [REDACTED] taxpayers accounts with incorrect CSEDs.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

## U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20024

July 21, 2023

**MEMORANDUM FOR:** COMMISSIONER OF INTERNAL REVENUE

*Heather Hill*

**FROM:** Heather M. Hill  
Deputy Inspector General for Audit

**SUBJECT:** Final Audit Report – Review of the IRS Independent Office of Appeals  
Collection Due Process Program (Audit # 202310001)

This report presents the results of our review of the Internal Revenue Service (IRS) Independent Office of Appeals Collection Due Process Program. The overall objective of this review was 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. This review is part of our Fiscal Year 2023 Annual Audit Plan and addresses the major management and performance challenge of *Improving Taxpayer Service*.

Management's complete response to the draft report is included as Appendix V. If you have any questions, please contact me or Bryce Kisler, 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).<sup>1</sup> 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.<sup>2</sup> The IRS accomplishes this by sending the taxpayer 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. 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.<sup>3</sup> Such notice shall be required only once for the taxable period to which the unpaid tax applies. The IRS notifies the taxpayer of its intent to levy by sending the taxpayer Letter 11, *Final Notice of Intent to Levy and Notice of Your Right to a Hearing*, or 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.<sup>4</sup> Congress subsequently enacted the IRS Restructuring and Reform Act of 1998, which gave taxpayers the right to a hearing with the IRS Independent Office of Appeals (Appeals) under the I.R.C. Collection Due Process (CDP) provisions.<sup>5</sup> Appeals is independent of other IRS offices, and its mission is to resolve Federal 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 of the Notice of Intent to Levy to request a levy hearing and five business days plus 30 calendar days after the day of the filing of the NFTL to request a lien hearing. Both the Notice of Intent to Levy and the NFTL are given in person, left at the dwelling or usual place of business, or sent by certified or registered mail to the taxpayer's last known address.

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<sup>1</sup> 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. The United States Code is the codification by subject matter of the general and permanent laws of the United States.

<sup>2</sup> The NFTL is a public document that alerts other creditors that the IRS is asserting a secured claim against a taxpayer's asset.

<sup>3</sup> Under certain circumstances, the IRS will not notify the taxpayer before a levy is made or suspend levy actions during a Collection Due Process or Equivalent Hearing. Exceptions may involve tax collection in jeopardy situations, State income tax levies, Federal contractor levies, or disqualified employment tax levies.

<sup>4</sup> 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.).

<sup>5</sup> Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2, 5, 16, 19, 22, 23, 26, 31, 38, and 49 U.S.C.).

Taxpayers who timely request a CDP hearing are generally granted a hearing.<sup>6</sup> 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. For example, a levy action may not be suspended when the collection of tax is in jeopardy.

Taxpayers who do not request a CDP hearing within the allotted time frames may request an Equivalent Hearing with Appeals. Late-filed CDP requests will not automatically be processed as Equivalent Hearings. The taxpayer must specifically request an Equivalent Hearing within one year after the date of the Notice of Intent to Levy and one year plus five business days after the filing date of the NFTL. If the taxpayer's 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.<sup>7</sup>

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.<sup>8</sup>

Taxpayers wishing to request a hearing are instructed to complete Form 12153, *Request for a Collection Due Process or Equivalent Hearing*, and send or deliver the CDP hearing request to the IRS office and address on the CDP notice. The taxpayer can also fax the CDP hearing request to the fax number listed on the notice, if the notice provides a fax number.

**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. However, the Collection function can refer a hearing request to Appeals promptly 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 settlement officer. Appeals will then issue a contact letter acknowledging receipt of the request for the CDP or Equivalent Hearing, which provides the taxpayer the opportunity to discuss with Appeals the reasons for disagreement with the collection action or to discuss alternatives to the collection action.<sup>9</sup>

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<sup>6</sup> A hearing request may not always be granted. For example, if the entire CDP request is frivolous or reflects a desire to delay the administration of the Federal tax laws, the taxpayer is not entitled to a hearing.

<sup>7</sup> 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.

<sup>8</sup> See Appendix III for details of the deadlines to request a CDP hearing after receipt of a lien or levy notice.

<sup>9</sup> Both Letter 3846, *Appeals Received Your Request for a Collection Due Process Hearing*, and Letter 4837, *Substantive Contact Uniform Acknowledgement*, includes information on the independent and impartial status of Appeals.

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.<sup>10</sup> For CDP hearings, the closing letter is known as a Notice of Determination.<sup>11</sup> For Equivalent Hearings, the closing letter is known as a Decision Letter.<sup>12</sup> Appeals will issue additional closing letters based on different hearing resolutions.<sup>13</sup>

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.<sup>14</sup> This is our 23<sup>rd</sup> annual audit of taxpayer appeal rights.

## **Results of Review**

### **The IRS Independent Office of Appeals Generally Complied With Collection Due Process Case Requirements**

Our review of a statistically valid stratified sample of 106 of the 31,665 CDP and Equivalent Hearing cases closed in Fiscal Year (FY) 2022 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:

- 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 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, we identified that [REDACTED] and [REDACTED] taxpayer cases had the incorrect Collection Statute Expiration Dates (CSED) posted to the taxpayers' accounts.

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<sup>10</sup> If the taxpayer withdraws their request for a hearing and a contact letter has not been issued, Appeals will not issue a closing letter.

<sup>11</sup> Letter 3193, *Notice of Determination Concerning Collection Actions Under Sections 6320 and 6330*.

<sup>12</sup> Letter 3210, *Decision on Equivalent Hearing Under IRC Section 6320 and/or 6330*.

<sup>13</sup> See Appendix IV for details on Appeals closing letters.

<sup>14</sup> 26 U.S.C. § 7803(d)(1)(A)(iii) and (iv).

## Taxpayer requests were not always classified correctly

During our review, we determined that the IRS [REDACTED] of the 106 CDP and Equivalent Hearing cases in our sample. Taxpayers who wish to have a CDP hearing must submit their request to the IRS within 30 calendar days of the date of the Notice of Intent to Levy or not more than five business days plus 30 calendar days from the date indicated on the NFTL. Taxpayers who do not timely submit their CDP hearing request may be granted an Equivalent Hearing if their request is received within the one-year period commencing the day after the date of the Notice of Intent to Levy and/or within the one-year period commencing the day after the end of the five-business-day period following the date indicated in the NFTL.

[REDACTED]

[REDACTED] Taxpayers have the right to petition the U.S. Tax Court if they disagree with Appeals' decision on a CDP hearing, which is not afforded to those taxpayers who are granted an Equivalent Hearing. Based on our sample results, we estimate that for [REDACTED] of the 31,665 taxpayer cases closed in FY 2022, Appeals incorrectly provided an Equivalent Hearing rather than a CDP hearing.<sup>15</sup> Appeals management agreed and indicated [REDACTED]

## Taxpayers did not always receive only one hearing

During our review, we determined that the IRS [REDACTED] of the 106 CDP and Equivalent Hearing cases in our sample. By law, a person shall be entitled to only one hearing with respect to the taxable period to which the unpaid tax is specified.<sup>16</sup>

[REDACTED]

[REDACTED] Taxpayers who are incorrectly granted more than one hearing with respect to the taxable period to which the unpaid tax is specified receive a hearing to which they are not entitled. In addition, the IRS's resources could have been utilized to provide hearings for additional taxpayers. Based on our sample results, we estimate that for [REDACTED] of the 31,665 taxpayer cases closed in FY 2022, Appeals erroneously provided more than one hearing.<sup>17</sup> Appeals management agreed and indicated [REDACTED]

## The suspension of the CSED continues to be an issue

We continued to identify errors related to the suspension of the CSED on taxpayer accounts. In FY 2022, we found that [REDACTED] ([REDACTED] percent) of the 106 cases reviewed had an incorrect CSED. In our prior year review, we identified 18 taxpayer accounts, out of a sample of 91, with CSED

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<sup>15</sup> Our sample included two strata, one for Equivalent Hearing and one for CDP cases, and was selected using a 95 percent confidence interval, an 11 percent error rate, and a  $\pm 6$  percent precision factor. When projecting the results of our statistical sample (9.09 percent error rate) against the Equivalent Hearing population of 3,316, we are 95 percent confident that the actual total is between one and 891 taxpayers.

<sup>16</sup> 26 U.S.C. § 6320(b)(2).

<sup>17</sup> Our sample was selected using a 95 percent confidence interval, an 11 percent error rate, and a  $\pm 6$  percent precision factor. When projecting the results of our statistical sample (.94 percent error rate) to the population of 31,665, we are 95 percent confident that the actual total is between one and 882 taxpayers.

errors.<sup>18</sup> 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 starts. 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.<sup>19</sup> For this review, we identified:

- [REDACTED] As a result, the IRS has more time to collect the delinquent taxes than it was authorized, which unnecessarily burdens the taxpayer. Based on our sample results, we estimate that the IRS may have improperly extended the CSED for [REDACTED] of the 31,665 CDP cases closed in FY 2022.<sup>20</sup>
- Six CDP cases had the CSED incorrectly shortened. As a result, the IRS has less time to collect any delinquent taxes from the taxpayer than it is authorized. Based on our sample results, we estimate that the IRS may have inadvertently shortened the CSED for 1,790 of the 31,665 CDP cases closed in FY 2022.<sup>21</sup>

The suspension of the CSED is systemically controlled by transaction codes on the Integrated Data Retrieval System.<sup>22</sup> One code is entered to identify the beginning date of the collection statute suspension and another code is entered to identify the ending date of the CSED suspension. 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 the 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 inputting the hearing completion date. The CDP CSED is systemically calculated and updated based on the two codes.

Appeals management agreed with the errors and indicated that they were caused by human error. Because our prior year's review included a still open recommendation to reinforce the procedures for Appeals personnel to ensure that the correct CSEDs are posted to taxpayer accounts, we are not making any further recommendations related to this issue in this year's report.

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<sup>18</sup> TIGTA, Report No. 2022-10-043, *Review of the Independent Office of Appeals Collection Due Process Program* (Aug. 2022).

<sup>19</sup> 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.

<sup>20</sup> Our sample was selected using a 95 percent confidence interval, an 11 percent error rate, and a  $\pm 6$  percent precision factor. When projecting the results of our statistical sample, we are 95 percent confident that the actual total is between [REDACTED] and 882 taxpayers.

<sup>21</sup> Our sample was selected using a 95 percent confidence interval, an 11 percent error rate, and a  $\pm 6$  percent precision factor. When projecting the results of our statistical sample, we are 95 percent confident that the actual total is between 399 and 3,182 taxpayers.

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

**Recommendation 1:** The Chief, IRS Independent Office of Appeals, should update the inaccurate suspension dates for the [REDACTED] taxpayer cases that we identified with CSED errors.

**Management's Response:** The IRS agreed with this recommendation. Appeals has reviewed the [REDACTED] taxpayer accounts identified in this report and has initiated the necessary corrective actions.

## 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 United States Code (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:

- Selected a stratified random sample of 106 from the 31,665 CDP and Equivalent Hearing cases closed during FY 2022.<sup>1</sup> TIGTA's contracted statistician assisted with developing the sampling plan and projections. We received and reviewed:
  - 95 of the 28,349 closed CDP cases.
  - 11 of the 3,316 closed Equivalent Hearing cases.
- Determined whether Appeals complied with select 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 was 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. §§ 6320(c) and 6330(c)(1)].
  - 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

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<sup>1</sup> Our sample size was determined using a 95 percent confidence interval, an 11 percent error rate, and a ±6 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.

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 October 2022 through April 2023. 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, Assistant Inspector General for Audit (Management Services and Exempt Organizations); Glen J. Rhoades, Director; Melinda H. Dowdy, Audit Manager; Rick Choksi, Lead Auditor; Michelle Ruff, Senior Auditor, and Joseph Smith, Senior Auditor.

## **Validity and Reliability of Data From Computer-Based Systems**

For this review, we relied on data obtained from the Appeals Centralized Database System.<sup>2</sup> This file is maintained at TIGTA's Data Center Warehouse.<sup>3</sup> Before relying on the data, we evaluated their sufficiency and reliability to ensure that the data fields 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 selecting a statistical stratified sample of CDP and Equivalent Hearing cases, reviewing closed case file documentation, and confirming exceptions with Appeals officials.

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<sup>2</sup> An application used by Appeals employees to create, maintain, and close an Appeals case inventory item throughout its life cycle.

<sup>3</sup> An architecture used to maintain critical historical data that has been extracted from operational data storage and transformed into formats accessible to an organization's analytical community.

## 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; [REDACTED] taxpayers who had an incorrect CSED posted to their accounts that improperly extended the amount of time the IRS has to legally collect their delinquent taxes (see page 4).

#### **Methodology Used to Measure the Reported Benefit:**

We reviewed a statistically valid stratified sample of 106 CDP and Equivalent Hearing cases closed in FY 2022. We identified [REDACTED] We estimated that [REDACTED] percent of the 31,665 taxpayer cases closed in FY 2022 had an incorrectly extended CSED posted to taxpayer records. TIGTA's contracted statistician calculated these error rate projections and applied them over the total population size of 31,665 closed CDP and Equivalent Hearing cases.<sup>1</sup>

#### **Type and Value of Outcome Measure:**

- Increased Revenue – Potential; 1,790 taxpayers who had an incorrect CSED posted to their accounts that inadvertently shortened the amount of time the IRS has to legally collect their delinquent taxes (see page 4).

#### **Methodology Used to Measure the Reported Benefit:**

We reviewed a statistically valid stratified sample of 106 CDP and Equivalent Hearing cases closed in FY 2022. We identified six CDP 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 6 percent of the 31,665 taxpayer cases closed in FY 2022 had an incorrectly shortened CSED posted to taxpayer records. TIGTA's contracted statistician calculated these error rate projections and applied them over the total population size of 31,665 closed CDP and Equivalent Hearing cases.<sup>2</sup>

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<sup>1</sup> Our sample was selected using a 95 percent confidence interval, an 11 percent error rate, and a  $\pm 6$  percent precision factor. When projecting the results of our statistical sample, we are 95 percent confident that the actual total is between [REDACTED] and 882 taxpayers.

<sup>2</sup> Our sample was selected using a 95 percent confidence interval, an 11 percent error rate, and a  $\pm 6$  percent precision factor. When projecting the results of our statistical sample, we are 95 percent confident that the actual total is between 399 and 3,182 taxpayers.

## 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.<sup>1</sup>

#### CDP Hearing Deadlines

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

#### 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.

*Source: Publication 1660, Collection Appeal Rights (Rev. 01-2020).*

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<sup>1</sup> Treas. Reg. § 301.6330-1 specifies 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.

## Appendix IV

### Closing Letters 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 or withdrawal of the CDP request, 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 hearing case, the taxpayer receives 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 U.S. Tax Court.
- For an Equivalent Hearing case, the taxpayer receives Letter 3210, *Decision on Equivalent Hearing Under IRC Section 6320 and/or 6330*, or Letter 5145, *Agreed Equivalent Hearing Closing Letter*. If the taxpayer disagrees with the Appeals decision in an Equivalent Hearing, they may not petition the U.S. Tax Court.
- For both applicable CDP and Equivalent Hearing cases, the taxpayer may receive:
  - Form 12257, *Summary Notice of Determination and Waiver of Judicial Review*, 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, *Collection Due Process/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.

## Appendix V

### Management's Response to the Draft Report



CHIEF, INDEPENDENT OFFICE  
OF APPEALS

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, DC 20224

June 20, 2023

MEMORANDUM FOR HEATHER M. HILL  
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Andrew J. Keyso Keyso Jr. Digitally signed by Andrew J. Keyso Jr.  
Date: 2023.06.20 15:46:43  
-0400  
Andrew J. Keyso  
Chief, IRS Independent Office of Appeals

SUBJECT: Draft Report – Fiscal Year 2022 – Review of the Independent  
Office of Appeals Collection Due Process Program  
(Audit #202310001)

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 update the inaccurate suspension dates for the [REDACTED] 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 [REDACTED] taxpayer accounts identified in this report and has initiated the necessary corrective actions.

Implementation Date: February 15, 2024

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

Outcome Measure 1:

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

Response:

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

Outcome Measure 2:

Increased Revenue–Potential; 1,790 taxpayers who had an incorrect CSED posted to their accounts that inadvertently shortened the amount of time the IRS has to legally collect their delinquent taxes (see Recommendation 1).

Response:

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

## Appendix VI

### 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



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contact our hotline on the web at [www.tigta.gov](http://www.tigta.gov) or via e-mail at  
[oi.govreports@tigta.treas.gov](mailto:oi.govreports@tigta.treas.gov).**

**To make suggestions to improve IRS policies, processes, or systems  
affecting taxpayers, contact us at [www.tigta.gov/form/suggestions](http://www.tigta.gov/form/suggestions).**

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