

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



Review of the Independent Office of Appeals Collection Due Process Program

August 4, 2021

Report Number: 2021-10-049

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.

TIGTACommunications@tigta.treas.gov | www.treasury.gov/tigta

HIGHLIGHTS: Review of the Independent Office of Appeals Collection Due Process Program

Final Audit Report issued on August 4, 2021

Report Number 2021-10-049

Why TIGTA Did This Audit

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

Impact on Taxpayers

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 provided taxpayers with only one hearing for the tax period(s) related to the unpaid tax and an impartial hearing officer for Collection Due Process and Equivalent Hearings. Appeals hearing officers verified applicable law or administrative procedures were met and allowed taxpayers to raise issues at the hearing related to the unpaid tax. They also made a determination on the proposed levy and/or filing of the Notice of Federal Tax Lien after considering whether the action(s) balanced efficient tax collection against the taxpayer's concern that the action(s) be no more intrusive than necessary.

Similar to prior audits, TIGTA identified processing errors in 16 (20 percent) of 81 sampled taxpayer cases. Processing errors related to proper classification of hearing requests and incorrect Collection Statute Expiration Dates (CSED) on the taxpayer's accounts. 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 Appeals misclassified 302 Collection Due Process or Equivalent Hearing cases, and 3,623 and 1,510 taxpayer accounts had their CSED overstated and understated, respectively, during Fiscal Year 2020.

What TIGTA Recommended

TIGTA made no recommendations as a result of the work performed during this review. However, key IRS officials reviewed this report prior to its issuance and agreed with the facts and conclusions presented.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

August 4, 2021

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

A handwritten signature in blue ink that reads "Michael E. McKenney".

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Review of the Independent Office of Appeals
Collection Due Process Program (Audit # 202110001)

This report presents the results of our review 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 issuance of a Notice of Intent to Levy. This review is part of our Fiscal Year 2021 Annual Audit Plan and addresses the major management and performance challenge of *Protecting Taxpayer Rights*.

The Treasury Inspector General for Tax Administration made no recommendations as a result of the work performed during this review. However, key Internal Revenue Service officials reviewed this report prior to its issuance and agreed with the facts and conclusions presented.

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

Table of Contents

| | |
|--|---------|
| <u>Background</u> | Page 1 |
| <u>Results of Review</u> | Page 3 |
| <u>Appeals Complied With Most Collection Due Process</u> <u>Case Requirements</u> | Page 3 |
| Appendices | |
| <u>Appendix I – Detailed Objective, Scope, and Methodology</u> | Page 7 |
| <u>Appendix II – Outcome Measures</u> | Page 9 |
| <u>Appendix III – Closing Notices for Collection Due Process and</u> <u>Equivalent Hearings</u> | Page 10 |
| <u>Appendix IV – Recent Mandatory Collection Due Process</u> <u>Audit Reports</u> | Page 11 |
| <u>Appendix V – Abbreviations</u> | Page 12 |

Background

Per the Internal Revenue Code (I.R.C.), if any person liable to pay any tax neglects or refuses to pay the unpaid tax after notice and demand, a Federal tax lien arises that attaches to a taxpayer's assets and the Internal Revenue Service (IRS) has the authority to file 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 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 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 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.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.

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 from the date on the Notice of Intent to Levy to request a levy hearing. The IRS is required to notify taxpayers within five business days by certified letter that an NFTL has been filed.

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 the codification by subject matter of the general and permanent laws of the United States.

² The NFTL is a public document that alerts other creditors that the IRS is asserting a secured claim against a taxpayer's assets. Credit reporting agencies may find the NFTL and include it in the taxpayer's credit report.

³ 26 U.S.C. § 6331(a).

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 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.

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 (codified as amended in scattered sections of 2, 5, 16, 19, 22, 23, 26, 31, 38, and 49 U.S.C.).

Taxpayers then have 30 calendar days beginning on the day after the five-day NFTL notification period to request a CDP 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 generally are 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 be entitled to 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 of 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

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. 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, *i.e.*, the directed address shown on the CDP notices. Taxpayers are not to send their hearing requests directly to Appeals.

**The Form 12153 is used by
taxpayers when requesting a
Collection Due Process Hearing.**

After a hearing request is received, Collection function office employees can continue to work with the taxpayer to resolve issues for up to 90 calendar days. If the Collection function office employee cannot resolve the taxpayer's concerns, the Collection function will send the hearing request to Appeals. However, the Collection function office 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 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.¹⁰

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 questions the timeliness of the request for a CDP hearing.

¹⁰ Letter 4837, *Substantive Contact Uniform Acknowledgement Letter*, includes significant information on the impartiality status of the hearing officer.

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

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.¹³ This is our twenty-first annual audit of taxpayer appeal rights.¹⁴

Results of Review

Appeals Complied With Most Collection Due Process Case Requirements

Our review of a statistically valid stratified sample of 81 of the 25,723 CDP and Equivalent Hearing cases closed in Fiscal Year (FY) 2020 found taxpayers were properly provided only one hearing for the tax period(s) related to the unpaid tax specified on the lien and/or levy notice.¹⁵ Also, the hearing officers documented the following in the case files:

- The hearing officer was impartial with no prior involvement with the tax or tax periods covered by the hearing.
- The hearing officer verified that the requirements of applicable law or administrative procedure were met.
- The taxpayer was allowed to raise issues at the hearing related to the unpaid tax.
- The hearing officer made a determination on the proposed levy and/or filing of the NFTL after considering whether the action(s) balanced efficient tax collection against the taxpayer's concern that the action(s) be no more intrusive than necessary.

During our review of FY 2019 cases, we identified an issue with the Collection function not always timely forwarding misdirected taxpayer hearing requests.¹⁶ The written request for a CDP hearing must be sent to the IRS office and address as directed on the CDP notice; however, taxpayers do not always send their request to the correct address. Collection function employees are required to fax a misdirected hearing request within one business day to the correct Collection function office. We also identified this issue during our review of FY 2018 cases and recommended that the IRS take corrective action to provide reasonable assurance

¹¹ If the taxpayer withdraws their request for a hearing and a contact letter has not been issued, Appeals will not issue a closing letter.

¹² See Appendix III for details on Appeals closing letters.

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

¹⁴ See Appendix IV.

¹⁵ See Appendix I for details on our sampling methodology.

¹⁶ TIGTA, Report No. 2020-10-054, *Review of the Independent Office of Appeals Collection Due Process Program* (Aug. 2020).

**Review of the Independent Office of Appeals
Collection Due Process Program**

that Collection function personnel forward misdirected CDP and Equivalent Hearing requests to the correct location on the same day the requests are received.¹⁷ IRS management agreed with this recommendation and during this year's review, we did not identify any instances in which the Collection function did not timely forward a misdirected hearing request.

However, similar to prior audits, we identified processing errors in 16 (20 percent) of the 81 sampled taxpayer cases. Specifically, we found:

- [REDACTED]
- The Collection Statute Expiration Dates (CSED) on some taxpayers' accounts were not correct.

Based on our sample results, we estimate that Appeals misclassified 302 CDP or Equivalent Hearing cases, and 3,623 and 1,510 taxpayer accounts had their CSED overstated and understated, respectively, during FY 2020.¹⁸

*****1*****

During our review, we determined that the IRS [REDACTED] in our sample. By comparison, during last year's review we found the IRS misclassified 14 (10 percent) of the 140 cases sampled.¹⁹ 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 letter. 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 CDP Levy notice 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 CDP Lien notice.

[REDACTED]

[REDACTED]²⁰

Based on our sample results, we estimate that for 302 of 25,723 taxpayer cases closed in FY 2020, Appeals provided CDP hearings to taxpayers to which they were not entitled.²¹

[REDACTED] Because there was [REDACTED] out of the 81 CDP and Equivalent Hearing cases in our sample and the prior report included a recommendation to require applicable Appeals technical employees to

¹⁷ TIGTA, Report No. 2019-10-058, *Review of the Office of Appeals Collection Due Process Program* pp. 8-9 (Sept. 2019).

¹⁸ See Appendix II.

¹⁹ TIGTA, Report No. 2020-10-054, *Review of the Independent Office of Appeals Collection Due Process Program* p. 4 (Aug. 2020).

²⁰ [REDACTED]

²¹ Our sample was selected using a [REDACTED] factor. When projecting the results of our statistical sample, we are [REDACTED] confident that the actual total is between [REDACTED] taxpayers.

complete available training on determining timeliness of taxpayer requests, we are not making any recommendations related to misclassified cases in this year's report.

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. We found that [REDACTED] of the 81 cases reviewed had an incorrect CSED.²² By comparison, in our prior year review we identified 12 taxpayer accounts, out of a sample of 140, with CSED errors. 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.²³ For this review, we identified:

- 12 CDP cases for which the CSED was incorrectly extended. As a result, the IRS has more time to collect delinquent taxes than it was authorized. Based on our sample results, we estimate that the IRS may have incorrectly extended the CSED for 3,623 of 25,723 CDP cases closed in FY 2020.²⁴
- 5 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 incorrectly shortened the CSED for 1,510 of 25,723 CDP cases closed in FY 2020.²⁵

The suspension of the CSED is systemically controlled by transaction codes on the Integrated Data Retrieval System (IDRS).²⁶ One code is entered to start the suspension, and another code is entered to stop the suspension and restart the statutory 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. 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 IDRS 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

²² [REDACTED]

²³ After Appeals issues a Notice of Determination for the CDP hearing, 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.

²⁴ Our sample was selected using a 95 percent confidence interval, 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 1,744 and 5,502 taxpayers.

²⁵ Our sample was selected using a 95 percent confidence interval, 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 227 and 2,793 taxpayers.

²⁶ IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.

**Review of the Independent Office of Appeals
Collection Due Process Program**

any rights to appeal following judicial review). Appeals management agreed with all of the errors we identified and stated the CSED errors were a result of human error.

Management Action: While conducting our audit, Appeals personnel input the applicable transaction codes to correct the [REDACTED] taxpayer cases we identified with CSED errors.

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review 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 issuance of a Notice of Intent to Levy. To accomplish our objective, we:

- Selected a stratified random sample of 102 of the 25,723 CDP and Equivalent Hearings closed cases in FY 2020 based on a 95 percent confidence level, ± 5 percent precision rate, and a 7 percent error rate and stratified based on the type of case, *i.e.*, CDP and Equivalent Hearing.¹ We were unable to secure the sample of 102 closed cases because the Federal Records Centers were closed due to the pandemic during our fieldwork phase ending March 31, 2020.² However, we did secure 81 of the original sample size of 102 closed cases as the case files or case information were at locations outside of the Federal Records Centers. We randomly selected, received, and reviewed:
 - 71 of the 21,438 closed CDP cases.
 - 10 of the 4,285 closed Equivalent Hearing cases.
- Determined whether Appeals was in compliance with selected provisions of 26 U.S.C. §§ 6320 and 6330 by reviewing case files for the 81 CDP and Equivalent Hearing cases selected. Specifically, we determined whether:
 - The taxpayer was provided only one hearing for the tax period(s) related to the unpaid tax specified in the lien and/or levy notice.
 - The taxpayer was provided an impartial hearing officer with no prior involvement with the tax or tax periods covered by the hearing.
 - The hearing officer verified that the requirements of applicable law or administrative procedure were met.
 - The taxpayer was allowed to raise issues at the hearing related to the unpaid tax.
 - The hearing officer made a determination on the proposed levy and/or filing of the NFTL after considering whether the action(s) balanced efficient tax collection against the taxpayer's concern that the action(s) be no more intrusive than necessary.
 - Taxpayer requests for CDP or Equivalent Hearings were classified correctly.
 - The CSED was calculated correctly on the taxpayer's IDRS account based on the type of hearing.

¹ A TIGTA contract statistician assisted with developing the sampling plans and projections.

² Federal Records Centers provide temporary storage and reference services for records that are need infrequently by the IRS but are not yet eligible for disposal or transfer to the National Archives. IRS records stored in a Federal Records Center remain in the legal custody of the IRS.

Performance of This Review

This review was performed with information obtained from the Appeals office in Washington, D.C., and various IRS Collection function offices during the period December 2020 through April 2021. 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 Heather M. Hill, Assistant Inspector General for Audit (Management Services and Exempt Organizations); Troy D. Paterson, Director; Debra L. Kisler, Acting Director; Melinda H. Dowdy, Audit Manager; and Joseph P. Smith, 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. This file is maintained at TIGTA's Data Center Warehouse.³ Before relying on the data, we evaluated the sufficiency and reliability of the data 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 a) classifying CDP and Equivalent Hearing taxpayer cases, b) ensuring that hearing officers met the criteria specified in select provisions of 26 U.S.C. §§ 6320 and 6330, and c) reviewing applicable computer codes on the IDRS 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 discussing potential exceptions with Appeals officials.

³ 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.

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; 3,623 taxpayers who had an incorrect CSED posted to their accounts, incorrectly extending the amount of time the IRS has to legally collect delinquent taxes (see Page 6).

Methodology Used to Measure the Reported Benefit:

We reviewed a statistically valid stratified sample of 81 CDP and Equivalent Hearing cases closed in FY 2020. We identified 12 CDP and Equivalent Hearing cases for which the IRS incorrectly computed the CSED, allowing the IRS additional time to legally collect delinquent taxes. We estimated that 14.09 percent of the taxpayer cases closed in FY 2020 (25,723 taxpayer accounts) had an incorrect CSED posted to taxpayer records. The TIGTA statistician calculated these error rate projections and applied them over the total population size of 25,723 closed CDP and Equivalent Hearing cases.¹

Type and Value of Outcome Measure:

- Increased Revenue – Potential; 1,510 taxpayers who had an incorrect CSED posted to their accounts, incorrectly shortening the amount of time the IRS has to legally collect delinquent taxes (see Page 6).

Methodology Used to Measure the Reported Benefit:

We reviewed a statistically valid stratified sample of 81 CDP and Equivalent Hearing cases closed in FY 2020. We identified five 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 5.87 percent of the taxpayer cases closed in FY 2020 (25,723 taxpayer accounts) had an incorrect CSED posted to taxpayer records. The TIGTA statistician calculated these error rate projections and applied them over the total population size of 25,723 closed CDP and Equivalent Hearing cases.²

¹ Our sample was selected using a 95 percent confidence interval, 7 percent error rate, and ± 5 percent precision factor. When projecting the results of our statistical sample, we are 95 percent confident that the actual total amount is between 1,744 and 5,502.

² Our sample was selected using a 95 percent confidence interval, 7 percent error rate, and ± 5 percent precision factor. When projecting the results of our statistical sample, we are 95 percent confident that the actual total amount is between 227 and 2,793.

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 IRC Sections 6320 or 6330 of the Internal Revenue Code*, which provides an explanation of the right to a judicial review. If the taxpayer disagrees with the Appeals decision, they may petition the courts.
- For an Equivalent Hearing case, the taxpayer receives a Letter 3210, *Decision Letter on Equivalent Hearing Under Internal Revenue Code Sections 6320 and/or 6330*. If the taxpayer disagrees with the Appeals decision in an Equivalent Hearing, they may not petition the courts.
- 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, and Waiver of Levy Prohibition*. Form 12257 and Letter 4382, *Form 12257 Closing Letter*, 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*, 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*, 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 IV

Recent Mandatory Collection Due Process Audit Reports

Recent TIGTA audits of the Appeals CDP performed during FYs 2016 through 2020.

- **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).

Abbreviations

| | |
|--------|---|
| CDP | Collection Due Process |
| CSED | Collection Statute Expiration Date |
| FY | Fiscal Year |
| IDRS | Integrated Data Retrieval System |
| 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.