



Treasury Inspector General for Tax Administration Office of Audit

OFFICE OF APPEALS ERRORS IN THE HANDLING OF COLLECTION DUE PROCESS CASES CONTINUE TO EXIST

Final Report issued on July 26, 2012

Highlights

Highlights of Report Number: 2012-10-077 to the
Internal Revenue Service Chief of Appeals.

IMPACT ON TAXPAYERS

The Collection Due Process Program was designed to allow taxpayers a process for exercising their right to appeal when the IRS files a Notice of Federal Tax Lien or a Notice of Intent to Levy against them. Additional improvements are needed to ensure statutory requirements are met. Misclassified hearing requests, inaccurate collection action suspensions, and inconsistent documentation of impartiality may result in taxpayers not receiving their full rights during an appeal hearing.

WHY TIGTA DID THE AUDIT

This audit was initiated because TIGTA is statutorily required to determine whether the IRS complied with the provisions of 26 United States Code Sections 6320 (b) and (c) and 6330 (b) and (c) 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.

WHAT TIGTA FOUND

Compared to our previous reviews, this year's audit continues to identify the same deficiencies in the IRS's processing of Collection Due Process cases as previously reported. Our review identified that the Office of Appeals did not always classify taxpayer requests properly and, as a result, some taxpayers received the wrong type of hearing. In addition, TIGTA also identified an increase in errors relating to the determination of the Collection Statute Expiration Date on taxpayer accounts compared to that identified during prior audits. TIGTA also found that Appeals personnel continue to not always document their impartiality in the Form 12257, *Waiver of Appeals Notice of Determination in a Collection Due Process Hearing* (Form 12257 Waiver) issued to taxpayers.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Chief, Appeals, provide refresher training to Appeals personnel to reemphasize the process to follow when determining whether a taxpayer is entitled to a Collection Due Process hearing or an Equivalent Hearing. TIGTA also recommended that Appeals request written guidance from Chief Counsel that specifies what constitutes timely receipt of a taxpayer's request for a Collection Due Process hearing to ensure taxpayer requests for Collection Due Process hearings are processed consistently. Finally, TIGTA recommended that Appeals review and correct the taxpayer accounts that were identified with Collection Statute Expiration Date errors and revise its guidelines to ensure impartiality is properly documented in the Form 12257 Waiver issued to the taxpayer.

In their response, Appeals management agreed with all of our recommendations. Appeals plans to develop a refresher class on the topic of determining the timeliness of Collection Statute Expiration Date and Equivalent Hearing requests as well as request a written advisory opinion from Chief Counsel on what constitutes timely receipt of a taxpayer's appeal request for a CDP hearing. In addition, Appeals corrected all Collection Statute Expiration Date errors made on the taxpayer accounts that TIGTA identified during this audit and revised its guidelines to require that hearing officers include the impartiality statement in the Letter 4382, *Closing Letter For Form 12257*, that accompanies the approved Form 12257 Waiver.

READ THE FULL REPORT

To view the report, including the scope, methodology, and full IRS response, go to:

<http://www.treas.gov/tigta/auditreports/2012reports/201210077r.pdf>