



*The Office of Appeals Continues to Improve  
Compliance With Collection Due Process  
Requirements*

**September 17, 2009**

**Reference Number: 2009-10-126**

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.

**Redaction Legend:**

1 = Tax Return/Return Information



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

September XX, 2009

MEMORANDUM FOR CHIEF, APPEALS

FROM: *Michael R. Phillips*  
Michael R. Phillips  
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – The Office of Appeals Continues to Improve  
Compliance With Collection Due Process Requirements  
(Audit # 200910018)

This report presents the results of our review of Collection Due Process (CDP)<sup>1</sup> cases. The overall objective of this review was to determine whether the Internal Revenue Service (IRS) complied with the provisions of 26 United States Code Sections (§§) 6320 and 6330<sup>2</sup> 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. The Treasury Inspector General for Tax Administration is required to determine annually whether the IRS complied with the legal guidelines and procedures for the filing of a Notice of Federal Tax Lien or the issuance of a notice of intent to levy and the right of the taxpayer to appeal.<sup>3</sup>

**Impact on the Taxpayer**

The Office of Appeals continues to improve compliance with CDP requirements and developed additional CDP procedures to better ensure the correct computer coding of taxpayers' accounts. However, we identified a few instances where the Appeals case files did not include the required documentation, so we could not determine whether the taxpayers' issues were fully addressed and whether the taxpayers' rights were potentially violated. Also, <sup>1</sup>

<sup>1</sup> A detailed explanation of the CDP and Equivalent Hearing procedures is included in Appendix V.

<sup>2</sup> 26 United States Code §§ 6320 and 6330 (Supp. III 2000).

<sup>3</sup> 26 United States Code §§ 7803 (d) (1) (A) (iii) and (iv) (Supp. III 2000).



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### **Synopsis**

Appeals has improved its handling of CDP cases when taxpayers exercised their rights to appeal the filing of a Notice of Federal Tax Lien or the issuance of a notice of levy. In our prior review,<sup>5</sup> we reported that hearing officers were not consistently including impartiality statements in their case files. Although our current review identified this same condition, previously implemented procedures have either reduced or eliminated the number of occurrences in the CDP and Equivalent Hearing cases we reviewed.

However, we identified errors continuing from previous years where taxpayers may not have received an appropriate or complete response to the issues raised in their appeals because some case files did not include documentation required to evaluate the completeness of the response. This audit identified the same condition and, as a result, we could not determine whether the taxpayers' issues were fully addressed and whether the taxpayers' rights were potentially violated. In addition, we identified taxpayer accounts that did not contain the required coding to identify those taxpayers who had exercised their rights for a CDP or Equivalent Hearing case. Finally,

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### **Recommendations**

We recommended that the Chief, Appeals, develop a process for ensuring that required documentation, such as a taxpayer's hearing request, is included in the Appeals files. In addition, the Chief, Appeals, should correct coding errors in the 12 taxpayer accounts we identified in our sample to ensure that the proper codes are reflected on the Integrated Data Retrieval System.<sup>6</sup>

<sup>4</sup> The date when the statute of limitations for collection of an outstanding balance expires. The statutory period for collection of a tax is normally 10 years from the date of assessment. (26 United States Code § 6502).

<sup>5</sup> *The Office of Appeals Continues to Show Improvement in Processing Collection Due Process Cases* (Reference Number 2008-10-160, dated September 12, 2008).

<sup>6</sup> IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.



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*Response*

IRS management agreed to our recommendations. Appeals management will change the Internal Revenue Manual to reflect updated requirements for the documentation to be retained in the Appeals Collection Due Process and Equivalent Hearing files. The Internal Revenue Manual will also reflect the requirements to use a check sheet reflecting the documents to be retained in each Appeals file. In addition, Appeals management reviewed and corrected all 12 taxpayers' accounts that were identified as improperly coded on the Integrated Data Retrieval System. Management's complete response to the draft report is included as Appendix VI.

Please contact me at (202) 622-6510 if you have questions or Nancy A. Nakamura, Assistant Inspector General for Audit (Management Services and Exempt Organizations), at (202) 622-8500.



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## *Abbreviations*

CDP	Collection Due Process
EH	Equivalent Hearing
IDRS	Integrated Data Retrieval System
IRS	Internal Revenue Service
U.S.C.	United States Code



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## *Background*

When initial contacts by the Internal Revenue Service (IRS) do not result in the successful collection of unpaid tax, the IRS has the authority to attach a claim, a Notice of Federal Tax Lien (lien), to a taxpayer's assets.<sup>1</sup> The IRS also has the authority to seize or levy a taxpayer's property, such as wages or bank accounts, to satisfy a taxpayer's debt.<sup>2</sup>

In February 1996, the IRS established procedures that allowed taxpayers to appeal the filing of a lien and proposed or actual levies. Congress enacted legislation to protect taxpayers' rights in the IRS Restructuring and Reform Act of 1998.<sup>3</sup> Taxpayers now have the right to a hearing with the Office of Appeals (Appeals) under the Collection Due Process (CDP).<sup>4</sup> Appeals is independent of other IRS offices, and its mission is to resolve tax controversies, without litigation, on a basis which is fair and impartial to both the Federal Government and the taxpayer.

When a taxpayer timely requests an Appeals hearing regarding the filing of a lien or the issuance of a notice of intent to levy, the taxpayer is granted a CDP hearing. However, if the taxpayer's request for a CDP hearing is not received within the allotted time, usually within 30 calendar days, the taxpayer, at the discretion of Appeals, might be granted an Equivalent Hearing (EH). In addition, the taxpayer must request an EH hearing within 1 year of the issuance of the notices of intent to levy or to file a lien.

Taxpayers have the right to petition the United States Tax Court if they disagree with Appeals' decision on a CDP hearing. When Appeals makes a final decision on a taxpayer's case, the hearing officer issues a Determination Letter on CDP cases or a Decision Letter on EH cases. During Fiscal Year 2008, Appeals closed 27,024 CDP cases and 6,957 EH cases.

The Treasury Inspector General for Tax Administration is required to determine annually whether the IRS complied with legal guidelines and procedures for the filing of a lien or a notice of intent to levy and the right of the taxpayer to appeal.<sup>5</sup> This is our ninth annual audit of taxpayer appeal rights.

Our previous audit report on the Appeals process was issued in September 2008,<sup>6</sup> and the related corrective actions were planned for implementation by December 15, 2008, and May 15, 2009.

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<sup>1</sup> 26 United States Code (U.S.C.) Section (§) 6321 (Supp. III 2000).

<sup>2</sup> 26 U.S.C. § 6331 (Supp. III 2000).

<sup>3</sup> Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).

<sup>4</sup> Appendix V provides an explanation of the CDP and Equivalent Hearing procedures.

<sup>5</sup> 26 U.S.C. §§ 7803(d)(1)(A)(iii) and (iv) (Supp. III 2000).

<sup>6</sup> *The Office of Appeals Continues to Show Improvement in Processing Collection Due Process Cases* (Reference Number 2008-10-160, dated September 12, 2008).



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The scope for this year's audit covered CDP and EH cases closed between October 1, 2007, and September 30, 2008, which was prior to the planned implementation dates for last year's corrective actions. Where applicable, we did not make recommendations in this report for findings repeated from the previous audit if the recommendations and the suggested corrective actions were still deemed sufficient in correcting future errors.

This review was performed by contacting Appeals personnel in Denver, Colorado, and San Francisco, California, and the Office of Chief Counsel, in Washington, D.C., during the period October 2008 through May 2009. 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. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.



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***Results of Review***

Appeals has continued to show improvements in complying with CDP requirements and in developing additional CDP procedures to better ensure the correct computer coding of taxpayers' accounts. In addition, Appeals located and provided all requested files, an issue that was a concern in prior years. However, we identified a few instances where case files were incomplete and did not contain necessary documentation. Without the appropriate documentation for each case, we could not identify the issues raised by the taxpayer or determine whether Appeals adequately addressed all issues in the taxpayer's hearing. Further, hearing officers are still not always documenting their impartiality in the case files. If impartiality is not adequately documented in the case file, there may be a risk of a lack of independence (or the appearance thereof) on behalf of the hearing officer.

We also identified taxpayer accounts that did not contain required computer coding to identify that the taxpayers had exercised their appeal rights for a CDP or EH hearing. As a result, IRS employees who access a taxpayer's account for subsequent actions will not be aware of the taxpayer's appeal. This could result in erroneous collection actions, inappropriate suspension of collection activity, or incorrect information or advice from IRS personnel. Finally,

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***Sufficient Documentation Was Not Available to Determine Whether  
the Office of Appeals Properly Addressed All Taxpayer Issues***

Appeals has detailed guidance describing the information that should be in the CDP and EH case files. However, in three of our sample case files, important documents such as the taxpayer's hearing request were not included in the case files.

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The hearing request plays a significant role in the taxpayer's rights for due process because it determines the type of hearing that is granted to the taxpayer. Because these hearing requests were sometimes missing, we could not determine if the taxpayers were granted the proper type of hearing (CDP or EH) as required. As a result, we could not determine if taxpayer rights were potentially violated.

Based on the missing documentation found in our sample cases, we projected to the population of cases and estimated that the following number of taxpayers in our sample might not have had their hearing requests properly classified:



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- 387 taxpayers whose CDP hearing requests were missing.
- 199 taxpayers whose EH requests were missing.

The numbers of errors and potential taxpayer rights violations have decreased since last year's review. In response to last year's recommendation, Appeals management agreed to conduct meetings with its campus<sup>7</sup> employees and discuss which documents should be retained in the case files. Although our sample cases were initiated prior to the IRS' planned corrective action of December 2008, we believe more needs to be done to ensure all closed case files contain the required documentation, particularly since this is the ninth year that we have been evaluating the IRS' efforts in complying with CDP requirements and since the Treasury Inspector General for Tax Administration has raised this issue in many of those prior years. Having a completed case file, especially the taxpayer's hearing request (which is a critical document in identifying the issues the taxpayer wishes to be addressed), should ensure that Appeals addresses the taxpayer's concerns.

### ***Recommendation***

**Recommendation 1:** The Chief, Appeals, should develop a process for ensuring that required documentation, such as the taxpayer's hearing request, is included in the Appeals files.

**Management's Response:** Appeals management agreed with this recommendation and will change the Internal Revenue Manual to reflect the updated requirements for the documentation to be retained in the Appeals CDP and EH files. The Internal Revenue Manual will also require the use of a check sheet reflecting the documents retained in each Appeals CDP and EH file.

### ***Hearing Officers Did Not Always Document Their Impartiality***

The Internal Revenue Manual requires that a CDP hearing or an EH must be conducted by a hearing officer who has had no prior involvement with respect to the unpaid tax. However, the taxpayer may waive this requirement. If a hearing officer does not document the case file with a statement of his or her impartiality, there is a risk of prior involvement in the taxpayer's case and a lack of independence. To comply with IRS procedures, closing letters to taxpayers and waivers<sup>8</sup> must include an impartiality statement.

A lack of this documentation does not mean that hearing officers were not impartial or that taxpayers received an unfair hearing. However, <sup>1</sup>

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<sup>7</sup> The data processing arm of the IRS. The campuses process paper and electronic submissions, correct errors, and forward data to the Computing Centers for analysis and posting to taxpayer accounts.

<sup>8</sup> CDP Determination Letters, CDP Summary Notices of Determination (waivers), and EH Decision Letters all must include an impartiality statement.



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We estimate 387 of the 27,024 CDP cases closed in Fiscal Year 2008 did not contain the impartiality statement. As a result, we could not determine if taxpayer rights were potentially violated.

This issue has been brought to the attention of Appeals management in prior reports. In response to our 2007 report,<sup>9</sup> Appeals management agreed to revise written guidance and provide training to hearing officers for documenting impartiality. During this review, we confirmed that Appeals revised its Internal Revenue Manual in December 2006, requiring that hearing officers include an impartiality statement in the case activity record during the initial analysis of the case.

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As a result, we believe the revised Internal Revenue Manual guidance has worked and should alleviate any future occurrences. Therefore, we are making no further recommendations.

### ***Office of Appeals Cases Did Not Always Contain the Correct Computer Coding on Taxpayer Accounts***

The IRS uses specific coding on its computer system (the Integrated Data Retrieval System – IDRS)<sup>10</sup> to identify those taxpayers who exercised their appeal rights for CDP hearings and EHCs. Because IRS employees use the IDRS as the primary tool for researching a taxpayer's account, the computer transcript must reflect all actions that occurred, including taxpayer appeals.

If the receipt of an Appeals hearing request and closure of the hearing are not recorded on the IDRS, inappropriate collection activity (or unnecessary suspension of collection activity) could occur. Further, the IRS might provide inaccurate information or advice to a taxpayer, such as suggesting that a CDP hearing or an EHC could still be held when the taxpayer has already received a hearing.<sup>11</sup> For example, taxpayers might call the IRS Customer Service function or the Taxpayer Advocate Service<sup>12</sup> to obtain information on the status of their accounts or seek assistance related to ongoing IRS activities. If the coding for Appeals hearings is inaccurate, taxpayers might experience increased burden by obtaining incorrect advice about their issues, as well as being denied requests for additional CDP hearings because they have already received a prior hearing and are not entitled to additional hearings.

<sup>9</sup> *The Office of Appeals Has Improved Its Processing of Collection Due Process Cases* (Reference Number 2007-10-139, dated September 21, 2007).

<sup>10</sup> IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.

<sup>11</sup> A taxpayer is entitled to only one CDP hearing regarding the tax period with the unpaid tax.

<sup>12</sup> The Taxpayer Advocate Service is an independent organization within the IRS that helps taxpayers resolve problems with the IRS and recommends changes that will prevent the problems.



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When a taxpayer's hearing request is received by the IRS, it is first routed through Compliance function personnel in the Small Business/Self-Employed or the Wage and Investment Divisions. A Compliance function employee initially enters the taxpayer's appeal in a tracking system<sup>13</sup> to document that a hearing request was received.

Subsequently, when a Compliance function employee transfers the taxpayer's case to Appeals, Appeals is required to verify that the case has been entered in the tracking system. When Appeals closes a CDP hearing or an EH, it is required to input a code on the tracking system to indicate that a hearing was held and a determination/decision was made. Information on the tracking system is systemically uploaded onto the IDRS, which allows certain IRS personnel to track the taxpayer's appeal through the entire hearing process.

Our review found no coding errors for the 70 CDP cases in our sample. However, we identified that for 12 (17 percent) of the 70 EH cases there was <sup>1</sup>  <sup>2</sup> incorrect coding showing the case as a CDP case, and/or 3) no coding to indicate that Appeals personnel had closed the case for all applicable tax periods. We projected this to the population of 6,957 EH cases closed in Fiscal Year 2008 and estimated that 1,193 EH cases did not contain the required IDRS coding needed to assist IRS personnel in addressing taxpayers' questions or concerns had they inquired about their cases. The following table shows the number of cases and the types of errors identified.

**Table 1: Coding Errors Identified on Taxpayer Accounts**

Information Not Recorded on the IDRS	Number of Cases
EH cases that were incorrectly coded as CDP and had no date of issuance of a Decision Letter.	5
<sup>1</sup> <input type="text"/>	
EH cases with no date of issuance of a Decision Letter.	6
<b>Total</b>	12

Source: Our review of a sample of CDP and EH cases closed in Fiscal Year 2008.

<sup>13</sup> Collection Due Process Tracking System. This tracking system is a database within Appeals that is used to monitor the progress and location of hearing requests.



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The IDRS coding errors identified in this year's report have also been identified in the prior years' reviews, with the exception of the EH cases miscoded as CDP cases.<sup>14</sup> In last year's review, IRS management agreed to take corrective actions, which included requiring Collection function personnel to include a print screen of the case listing page from the tracking system to confirm that the case is on the system when it is received in Appeals. In addition, technical employees in Appeals will be required to review and compare the print screen information to the Appeals Centralized Database System<sup>15</sup> case summary card for accuracy. Corrections will be submitted immediately to Appeals Processing Services, and the settlement officer will monitor that Appeals Processing Services makes the corrections in a timely manner prior to closing.

Because the sample cases in this audit were initiated prior to the IRS' implementation date of May 2009, we are making no further recommendations regarding the processes for IDRS coding. We believe that the IRS' corrective actions should provide reasonable assurance that taxpayer accounts will have a higher likelihood of being coded correctly in the future. However, we are making a recommendation to correct the coding errors on the 12 cases we identified in our sample.

### **Recommendation**

**Recommendation 2:** The Chief, Appeals, should correct the coding errors in all 12 taxpayer accounts we identified in our sample to ensure that the proper codes are reflected on the IDRS.

**Management's Response:** Appeals management agreed with this recommendation and corrected all 12 taxpayer accounts that were improperly coded on the IDRS.

### **The Collection Statute Expiration Date Was Not Always Correct**

The IRS generally has 10 years from the date of assessment to collect a liability owed by a taxpayer. This is referred to as the Collection Statute Expiration Date. Because the IRS usually stops collection activity during the Appeals process, the Collection Statute Expiration Date is temporarily postponed or suspended during a CDP hearing. The IRS suspends the 10-year statute of limitations from the date of the CDP hearing request until the date the Appeals determination is made final or the date the taxpayer withdraws the request in writing.

The statute suspension is systematically controlled by the IDRS. One code is entered to start the suspension and another is entered to stop the suspension and restart the statute period. Currently, the code input to suspend the collection statute is usually entered by the Collection function;

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<sup>14</sup> *The Office of Appeals Continues to Show Improvement in Processing Collection Due Process Cases* (Reference Number 2008-10-160, dated September 12, 2008) and *The Office of Appeals Has Improved Its Processing of Collection Due Process Cases* (Reference Number 2007-10-139, dated September 21, 2007).

<sup>15</sup> The Appeals Centralized Database System is a computerized case control system used to control and track cases throughout the appeals process.



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however, in certain instances, Appeals is responsible for the input. Upon completion of each CDP hearing, Appeals is responsible for entering the code to remove the suspension of the statute period. The IDRS will systemically recalculate the Collection Statute Expiration Date based on the dates entered for the two codes (which reflect the length of the Appeals hearing plus expiration of the time period for seeking judicial review, or the exhaustion of any rights to appeal following judicial review). We found no instances of an inappropriately suspended statute in our CDP case reviews.

When the taxpayer is given an EH, the collection statute is not suspended. However, [REDACTED]

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[REDACTED] We projected this to the population and estimated 100 of the 6,957 taxpayers with EH cases closed in Fiscal Year 2008 had the collection statute inappropriately extended.

When the IRS suspends the collection statute for a period longer than allowed, it results in a potential violation of taxpayer rights. This issue has been brought to the attention of Appeals management in our prior reports.<sup>16</sup> In response, Appeals management agreed to revise written guidance, update templates, and provide training to hearing officers. Appeals also stated it would develop and implement a procedure to immediately correct taxpayer accounts when hearing officers identify missing computer codes for suspension of collection activity. [REDACTED]

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[REDACTED] As a result, we are making no further recommendations to address this condition at this time.

<sup>16</sup> *The Office of Appeals Has Improved Its Processing of Collection Due Process Cases* (Reference Number 2007-10-139, dated September 21, 2007) and *The Office of Appeals Should Continue to Strengthen and Reinforce Procedures for Collection Due Process Cases* (Reference Number 2006-10-123, dated September 20, 2006).



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## **Appendix I**

### *Detailed Objective, Scope, and Methodology*

The objective of this review was to determine whether the IRS complied with the provisions of 26 United States Code (U.S.C.) 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 (lien) or the issuance of a notice of intent to levy.<sup>1</sup> To accomplish this objective, we:

- I. Determined whether any new procedures or processes had been developed since completion of the prior Treasury Inspector General for Tax Administration statutory review.<sup>2</sup> This involved requesting documentation from Appeals personnel supporting the implementation of corrective actions to our prior audit reports and other procedural or process changes.
- II. Determined whether Appeals CDP and EH<sup>3</sup> office and administrative case files could be secured and contain minimum documentation for a hearing.
  - A. Obtained from the Appeals Centralized Database System<sup>4</sup> file maintained at the Treasury Inspector General for Tax Administration Data Center Warehouse<sup>5</sup> a computer extract of CDP and EH cases closed between October 1, 2007, and September 30, 2008. We validated the computer extract using information from the Data Center Warehouse, reviewed the appropriateness of data within fields requested, and compared population totals to information obtained from Appeals personnel.
  - B. Selected samples of 70 CDP and 70 EH case files.
    1. Selected statistical attribute samples of 70 CDP cases (from a population of 27,024 CDP cases) and 70 EH cases (from a population of 6,957 EH cases) based on a confidence level of 90 percent, a precision rate of  $\pm 6$  percent, and an expected error rate of 10 percent. We selected a statistical sample because we wanted to project results to the entire universe.

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<sup>1</sup> 26 U.S.C. §§ 6320 and 6330 (Supp. III 2000).

<sup>2</sup> *The Office of Appeals Continues to Show Improvement in Processing Collection Due Process Cases* (Reference Number 2008-10-160, dated September 12, 2008).

<sup>3</sup> A detailed explanation of the CDP and EH procedures is included in Appendix V.

<sup>4</sup> The Appeals Centralization Database System is a computerized case control system used to control and track cases throughout the Appeals process.

<sup>5</sup> The Treasury Inspector General for Tax Administration Data Center Warehouse stores taxpayer data and allows auditors to query and download data needed for audit work.



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2. Requested and determined whether Appeals could provide the sampled office files and whether we could secure the sampled administrative files.
  3. For each sample case file received, determined whether the file contained the minimum documentation required to support a CDP hearing or an EH, which included the Notice of Intent to Levy (Letter 1058/LT11) and/or Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320 (Letter 3172); Request for a Collection Due Process Hearing or Equivalent Hearing (Form 12153) or similar taxpayer request; Appeals Centralized Database System Case Summary Card and Activity Record; Appeals Transmittal and Case Memo (Form 5402); Notice of Determination Concerning Collection Action(s) Under Section 6320 and/or 6330 (Letter 3193/3194); Summary Notice of Determination, Waiver of Right to Judicial Review of a Collection Due Process Determination, and Waiver of Suspension of Levy Action (Form 12257); Decision Letter Concerning Equivalent Hearing Under Section 6320 and/or 6330 of the Internal Revenue Code (Letter 3210); transcript of the taxpayer's account; and Collection case history. We discussed exceptions with Appeals personnel.
- III. Determined whether CDP and EH cases were misclassified (should have been an EH or a CDP case, respectively).
- A. Using the samples selected in Step II.B.1., reviewed the Appeals Centralized Database System, case file, and tax account transcript information to determine whether the taxpayers' hearing requests were received timely or late and were properly classified.
  - B. Discussed exceptions with Appeals personnel.
- IV. Determined whether Appeals was in compliance with 26 U.S.C. §§ 6320 and 6330 when handling CDP and EH requests.
- A. Using the samples selected in Step II.B.1., determined whether the following items were addressed by the hearing officer.
    1. The taxpayer was provided only one hearing for the tax period related to the unpaid tax specified in the lien/levy notice. [26 U.S.C. §§ 6320(b) (2) and 6330(b) (2)]
    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)]
    3. The hearing officer obtained verification that the requirements of any applicable law or administrative procedure were met. [26 U.S.C. § 6330(c) (1)]
    4. The taxpayer was allowed to raise issues at the hearing relating to the unpaid tax, the filing of the lien, or the proposed levy action. This could include appropriate



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spousal defenses, challenges to the appropriateness of collection activities, offers of collection alternatives, or questions about the underlying liability. [26 U.S.C. § 6330(c) (2)]

5. The hearing officer made a determination after considering whether any proposed collection action balances efficient tax collection with the taxpayer's legitimate concern that any collection action be no more intrusive than necessary. [26 U.S.C. § 6330(c) (3)]
  - B. Discussed exception cases with Appeals personnel to confirm and determine causes. After confirmation, we estimated the number of potential exceptions within the population.
- V. Determined whether CDP and EH accounts are being properly coded on the IDRS.<sup>6</sup>
  - A. Using the samples selected in Step II.B.1., determined whether the correct coding was input to taxpayers' accounts.
  - B. Discussed exception cases with Appeals personnel to confirm and determine causes. After confirmation, we estimated the number of potential exceptions within the population.

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<sup>6</sup> IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.



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## **Appendix II**

### *Major Contributors to This Report*

Nancy A. Nakamura, Assistant Inspector General for Audit (Management Services and Exempt Organizations)  
Jeffrey M. Jones, Director  
Diana Tengesdal, Acting Director  
Joseph Cooney, Audit Manager  
Chinita Coates, Lead Auditor  
Robert Beel, Senior Auditor  
Terrey Haley, Senior Auditor  
Yasmin Ryan, Senior Auditor  
Joseph Smith, Senior Auditor  
Jennifer Clewis, Auditor  
Angela Garner, Auditor  
Rashme Sawhney, Auditor



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**Appendix III**

*Report Distribution List*

Commissioner C  
Office of the Commissioner – Attn: Chief of Staff C  
Deputy Chief, Appeals AP  
Chief Counsel CC  
National Taxpayer Advocate TA  
Director, Office of Legislative Affairs CL:A  
Director, Office of Program Evaluation and Risk Analysis RAS:O  
Office of Internal Control OS:CFO:CPIC:IC  
Director, Office of Legislative Affairs CL:LA  
Audit Liaison: Chief, Appeals AP



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**Appendix IV**

**Outcome Measures**

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

**Type and Value of Outcome Measure:**

- Taxpayer Rights – Potential; closed CDP<sup>1</sup> case files for 774 taxpayers did not meet 1 or more requirements (see pages 3 and 4).<sup>2</sup>

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

Using a computer extract from the Appeals Centralized Database System,<sup>3</sup> we identified a population of 27,024 CDP cases closed in Fiscal Year 2008. We selected a statistical attribute sample of 70 CDP cases and <sup>1</sup>

<sup>1</sup> Using a 90 percent confidence level and a precision rate of  $\pm 2.33$  percent, we estimated that the rights of 387 taxpayers were potentially affected. Using the same population and statistical sample, <sup>1</sup>

<sup>1</sup> Using a 90 percent confidence level and a precision of  $\pm 2.33$  percent, we estimated that the rights of 387 taxpayers were potentially affected, bringing the total estimated taxpayers whose rights were potentially affected by 1 or more of these requirements to 774 (387 + 387).

**Type and Value of Outcome Measure:**

- Taxpayer Rights – Potential; closed EH case files for 199 taxpayers did not contain the taxpayer's written hearing request (see page 3).

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

Using a computer extract from the Appeals Centralized Database System, we identified a population of 6,957 EH cases closed in Fiscal Year 2008. We selected a statistical attribute sample of 70 EH cases and <sup>1</sup>

<sup>1</sup> A detailed explanation of the CDP and EH procedures is included in Appendix V.

<sup>2</sup> The number of Taxpayer Rights and Entitlements cases may be less due to duplicate conditions in the same case files.

<sup>3</sup> The Appeals Centralized Database System is a computerized case control system used to control and track cases throughout the Appeals process.



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***The Office of Appeals Continues to Improve  
Compliance With Collection Due Process Requirements***

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1 Using a 90 percent confidence level and a precision rate of  $\pm 3.26$  percent, we estimated that the rights of 199 taxpayers were potentially affected.

**Type and Value of Outcome Measure:**

- Reliability of Data – Potential; 1,193 EH case files did not contain the correct computer coding on the taxpayers' accounts (see page 5).

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

Using a computer extract from the Appeals Centralized Database System, we identified a population of 6,957 EH cases closed in Fiscal Year 2008. We selected a statistical attribute sample of 70 EH cases and found coding errors in 12 (17 percent) case files that did not contain the correct computer coding on the accounts. Using a 90 percent confidence level and a precision rate of  $\pm 7.37$  percent for EH cases, we estimated 1,193 EH case files did not contain the correct computer coding on taxpayer accounts.

**Type and Value of Outcome Measure:**

- Taxpayer Rights – Potential; 100 EH cases files had their Collection Statute Expiration Date inappropriately extended (see page 7).

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

Using the computer extract of the Appeals Centralized Database System, we identified a population of 6,957 EH cases closed in Fiscal Year 2008. We selected a statistical attribute sample of 70 EH cases and 1

1 Using the 90 percent confidence level and a precision rate of  $\pm 2.32$  percent of EH cases, we estimated 100 EH case files could have had their Collection Statute Expiration Date inappropriately extended.



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## **Appendix V**

### *Collection Due Process Procedures*

The IRS is required to notify taxpayers in writing that a lien has been filed or when it intends to levy. A taxpayer is allowed to appeal the filing of the lien or proposed levy action through the CDP by filing a hearing request. This hearing request must be received within 30 calendar days plus 5 business days of the filing of the lien or within 30 calendar days of the date of the notice of intent to levy. If a taxpayer's hearing request is submitted on time, the IRS will suspend all collection efforts and the Office of Appeals (Appeals) will provide the taxpayer a CDP hearing.

If the taxpayer disagrees with the Appeals decision, he or she may petition the courts. If a taxpayer's hearing request is not submitted timely, Appeals has discretionary authority to provide the taxpayer an EH and consider the same issues as in a CDP hearing; however, the IRS is not required to suspend collection action and the taxpayer does not have the right to a judicial review.

Taxpayers are entitled to one hearing per tax period for which a lien or notice of intent to levy has been issued. The hearing is conducted by an Appeals officer or Settlement officer (hearing officer) who has had no prior involvement with the unpaid tax. During the hearing, the hearing officer must verify whether the requirements of all applicable laws or administrative procedures related to the lien or notice of intent to levy were met. The hearing officer must also address any issues the taxpayer may raise relevant to the unpaid tax, the filing of the lien, or the proposed levy, such as whether the taxpayer is an innocent spouse; determine if collection actions were appropriate; and decide if other collection alternatives would facilitate the payment of the tax. The hearing officer must determine whether any proposed collection action balances the need for efficient collection of taxes with the taxpayer's legitimate concerns. The taxpayer may not raise an issue that was considered at a prior administrative or judicial hearing if the taxpayer participated meaningfully in the prior proceeding.

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 and/or the IRS are required to take. For a CDP case, the taxpayer receives either a Determination Letter, which provides an explanation of the right to a judicial review, or a Summary Notice of Determination, which is used when the taxpayer agrees with Appeals, waives the right to a judicial review, and waives the suspension of collection action. For an EH case, the taxpayer receives a Decision Letter.

The CDP or EH case is reviewed by the hearing officer's manager at the completion of the case to evaluate whether the hearing officer followed all requirements and procedures.



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After Appeals has made a determination on a case, if the taxpayer has a change in circumstances that affects the Appeals determination or if the Collection function does not carry out the determination, the taxpayer has the right to return to Appeals. The Appeals office that made the original determination generally retains jurisdiction over the case.



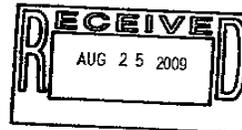
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**Appendix VI**

*Management's Response to the Draft Report*



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224



August 20, 2009

MEMORANDUM FOR MICHAEL R. PHILLIPS  
TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

From: Diane S. Ryan   
Chief, Appeals

Subject: Draft Audit Report - The Office of Appeals Continues to Improve  
Compliance With Collection Due Process Requirements  
(Audit 2009-10-018)

I have reviewed the subject draft audit report. I appreciate your recognition of our continued improvement in the processing of Collection Due Process (CDP) cases and value your recommendations to help us improve our processes. Appeals has worked and will continue to work aggressively and diligently to protect taxpayer rights, enhance the final work product, and ensure accurate computer coding on taxpayer accounts. Your recommendations have furthered our efforts on these fronts. Attached are our corrective actions in response to your recommendations.

We agree there is a need to ensure that necessary documents are retained in the Appeals CDP and Equivalent Hearing files. To facilitate the retention of only those documents deemed necessary, the Internal Revenue Manual will be updated to reemphasize to our employees the requirements for retaining documentation in Appeals closed office files. In addition, a check sheet will be developed to facilitate the retention of the necessary documents and to explain any deviation from these requirements. We will reemphasize with our employees the importance of Appeals maintaining a complete closed office file and will remind our employees to use the check sheet stating which documents need to be retained.

Finally, Appeals will continue to review its policies and procedures to ensure appropriate computer coding is entered and incorrect coding is timely corrected on IRS systems such as the Integrated Data Retrieval System (IDRS) and the Collection Due Process Tracking System (CDPTS), both front-end and back-end, for all taxes and periods involved in a hearing. Appeals is committed to working with the Operating Divisions in these efforts.

If you have any questions, please have a member of your staff contact Beverly Ortega Babers, Director, Appeals Policy & Valuation, at (202) 435-5659.

Attachment



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*The Office of Appeals Continues to Improve  
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Attachment

**RECOMMENDATION 1:**

The Chief, Appeals, should develop a process for ensuring that required documentation, such as the taxpayer's hearing request, is included in the Appeals files.

**PROPOSED CORRECTION ACTION:**

IRM 8.22.3.6.1(1) will be changed to reflect updated requirements for the documentation to be retained in Appeals CDP/EH files. This IRM will also reflect the requirement to use a check sheet reflecting the documents retained in each Appeals CDP/EH file.

**IMPLEMENTATION DATE:** February 15, 2010

**RESPONSIBLE OFFICIAL:** Director, Appeals Policy & Valuation

**CORRECTIVE ACTION MONITORING PLAN:** The Director, Tax Policy and Procedure (Collection and Processing), will inform the Director, Appeals Policy & Valuation, of any delays in implementing this action.

**RECOMMENDATION 2:**

The Chief, Appeals, should correct the coding errors in all 12 taxpayer accounts we identified in our sample to ensure the proper codes are reflected on the IDRS.

**PROPOSED CORRECTION ACTION:**

During our review of the exception cases identified by TIGTA during this audit, Appeals reviewed and corrected all of the inaccurate taxpayer IDRS accounts.

**IMPLEMENTATION DATE:** Implemented

**RESPONSIBLE OFFICIAL:** Director, Appeals Policy & Valuation