



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

August 25, 2015

Reference Number: 2015-10-068

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HIGHLIGHTS

REVIEW OF THE OFFICE OF APPEALS COLLECTION DUE PROCESS PROGRAM

Highlights

Final Report issued on August 25, 2015

Highlights of Reference Number: 2015-10-068 to the Internal Revenue Service Chief of Appeals.

IMPACT ON TAXPAYERS

The Collection Due Process Program was designed to give taxpayers an opportunity for an independent review to ensure that the levy action that has been proposed or the 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.

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

This year's audit identified the same deficiencies in the IRS's processing of Collection Due Process cases as previously reported. Specifically, the Office of Appeals did not always classify taxpayer requests properly and, as a result, some taxpayers received the wrong type of hearing. In our two statistically valid samples, TIGTA identified nine taxpayer cases that were misclassified. This is a minor increase from the eight misclassified taxpayer cases that were identified in the prior year's review.

In addition, TIGTA continued to identify errors related to the determination of the Collection Statute Expiration Date on taxpayer accounts. From statistically valid samples, TIGTA identified taxpayer cases that had an incorrect Collection Statute Expiration Date. For the 19 taxpayer cases identified, the IRS incorrectly extended

the time period in three of the taxpayer cases, allowing the IRS additional time it should not have had to collect the delinquent taxes. In the remaining 16 taxpayer cases, the IRS incorrectly decreased the time to collect the delinquent taxes.

TIGTA also found that Appeals personnel properly documented the impartiality statement in the Case Activity Records; however, they did not always document their impartiality statement in final hearing notification letters issued to taxpayers. TIGTA identified that in four of the 140 taxpayer cases reviewed, the IRS did not document an impartiality statement in the final notification letters sent to taxpayers.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Chief, Appeals, review and correct the taxpayer accounts that were identified with Collection Statute Expiration Date errors.

In their response, IRS management agreed with TIGTA's recommendation and plans to review and correct the taxpayer accounts TIGTA identified.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

August 25, 2015

MEMORANDUM FOR CHIEF, APPEALS

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Review of the Office of Appeals Collection Due
Process Program (Audit # 201510004)

This report presents the results of our review to determine whether the Internal Revenue Service complied with 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 issuance of a Notice of Intent to Levy. This audit is part of our Fiscal Year 2015 Annual Audit Plan and addresses the major management challenge of Taxpayer Protection and Rights.

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

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



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Abbreviations

CDP	Collection Due Process
CSED	Collection Statute Expiration Date
EH	Equivalent Hearing
FY	Fiscal Year
IRS	Internal Revenue Service
TIGTA	Treasury Inspector General for Tax Administration
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 to a taxpayer's assets (lien)¹ with a Letter 3172, *Notice of Federal Tax Lien Filing and Your Rights to a Hearing Under IRC² 6320*. 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.³ However, before a levy can be placed on a taxpayer's account, the IRS must issue 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 modified collection activity provisions that allowed taxpayers to appeal the filing of a lien and proposed or actual levies.⁴ Further, Congress enacted legislation to protect taxpayers' rights in the IRS Restructuring and Reform Act of 1998,⁵ which gave taxpayers the right to a hearing with the Office of Appeals (Appeals) under the Collection Due Process (CDP)⁶ provisions. The CDP Program was designed to give taxpayers an opportunity for an independent review to ensure that the levy action that has been proposed or the lien that has been filed is warranted and appropriate. 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). The taxpayer must request an EH within one year of the issuance of the Notice of Intent to Levy or the filing of a lien. 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 EH.

When Appeals makes a final decision on a taxpayer's case, the hearing officer will issue one of the following final notification letters:

¹ 26 United States Code (U.S.C.) § 6321.

² The Internal Revenue Code 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 U.S.C. and are implemented by the IRS through its Treasury Regulations and Revenue Rulings.

³ 26 U.S.C. § 6331.

⁴ 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.).

⁵ 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.).

⁶ See Appendix V for an explanation of the CDP and Equivalent Hearing procedures.



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- Determination Letter 3193 – *Notice of Determination Concerning Collection Action(s) Under Section 6320 and/or 6330 of the IRC.*
- Decision Letter 3210 – *Decision Letter on Equivalent Hearing Under IRC Sections 6320 and/or 6330.*
- Closing Letter 4382 with Form 12257 – *Summary Notice of Determination, Waiver of Right to Judicial Review of a Collection Due Process Determination, Waiver of Suspension of Levy Action, and Waiver of Periods of Limitation in Section 6330(e)(1).*
- Closing Letter 4383 with Form 12256 – *Withdrawal of Request for Collection Due Process or Equivalent Hearing.*

The Closing Letter 4382 is used when the taxpayer and the IRS agree on a viable collection alternative.⁷ The Closing Letter 4383 is used when the taxpayer has reached a resolution with the IRS regarding the tax and tax periods and he or she is otherwise satisfied that a hearing with Appeals is no longer needed. During Fiscal Year (FY) 2014, Appeals closed 34,155 CDP cases and 7,111 EH cases.

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 a lien or a Notice of Intent to Levy and the right of the taxpayer to appeal these actions.⁸ This is our fifteenth annual audit of taxpayer appeal rights.

The scope for this year's audit covered CDP and EH cases closed between October 1, 2013, and September 30, 2014. This review was performed by contacting Appeals personnel in St. Paul, Minnesota; Holtsville, New York; and Greensboro, North Carolina, during the period October 2014 through May 2015. 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.

⁷ A Form 12257 Waiver is a signed agreement between the taxpayer and the IRS in which the taxpayer waives the right to a judicial review and waives the suspension of collection action. For example, these taxpayers may have agreed to an installment agreement, offer in compromise, or other collection alternative.

⁸ 26 U.S.C. §§ 7803(d)(1)(A)(iii) and (iv) (Supp. III 2000).



Results of Review

Some Taxpayers Did Not Receive the Appropriate Type of Hearing

We identified nine taxpayer cases (three CDP and six EH) that were misclassified in our two statistically valid samples of 70 CDP and 70 EH taxpayer cases. This is a minor increase from the eight misclassified taxpayer cases that we identified in our prior review.⁹

For the three CDP taxpayer cases, the taxpayers received multiple IRS notices but did not timely file the request for a hearing within the required 30-day period listed on the first IRS notice.¹⁰ Although these requests were not timely received, Appeals granted these taxpayers a CDP hearing instead of an EH.

CDP provisions allow taxpayers the right to petition the U.S. Tax Court if they disagree with Appeals' final determination or decision, whereas an EH does not provide this right. Based on errors identified in three of the 70 CDP taxpayer cases we reviewed, we project from the total population that an estimated 1,464 out of 34,155 taxpayer cases may have incorrectly received a CDP hearing during FY 2014 instead of an EH as required.¹¹

In addition, we identified six misclassified EH taxpayer cases. *****1*****
*****1*****
*****1*****
*****1*****
*****1*****. Based on the errors in six of the 70 EH taxpayer cases, we project from the total population that 610 of 7,111 taxpayer cases may have been received timely for a CDP hearing but were incorrectly identified as late.¹² All six taxpayers were not appropriately provided taxpayer rights and privileges associated with a CDP hearing.

Appeals management agreed with our analysis and indicated that the nine taxpayer cases were misclassified due to incorrect judgment on the part of hearing officers. Appeals acknowledged that sometimes hearing officers made wrong decisions when classifying cases because facsimile telephone numbers on the taxpayer requests and IRS stamp dates can be confusing. Additionally, because of multiple dates on a request, it can be very hard for the IRS to determine

⁹ TIGTA, Ref. No. 2014-10-049, *Review of the Office of Appeals Collection Due Process Program* (Aug. 2014).

¹⁰ See Appendix VI for more information on the time periods to file an appeal.

¹¹ The point estimate projection is based on a two-sided 90 percent confidence interval. We are 90 percent confident that the point estimate is between 402 taxpayers and 3,656 taxpayers.

¹² The point estimate projection is based on a two-sided 90 percent confidence interval. We are 90 percent confident that the point estimate is between 270 taxpayers and 1,153 taxpayers.



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timeliness. Appeals management also stated that taxpayers may have been confused by the multiple collection notices sent by the IRS.

We made no recommendations for this finding. In a previous review, we recommended that Appeals management provide refresher training to Appeals personnel to reemphasize the process to follow when determining whether a taxpayer is entitled to a CDP hearing or an EH.¹³ Additionally, we have recommended that Appeals management review previously identified misclassified cases and determine if there are process improvements or additional training areas that can be emphasized to ensure that taxpayer CDP and EH cases are classified correctly. We have also recommended that Appeals management consider working with Collection function management and the IRS Office of Taxpayer Correspondence¹⁴ to ensure that lien and levy notices are clear and provide the proper directions for taxpayers to follow in sending their hearing requests to the IRS.¹⁵

Appeals management agreed with our previous recommendations and developed a refresher class on the topic of determining timeliness of CDP and EH requests. This class is available as an optional Continuing Professional Education topic to Appeals technical employees who work CDP cases. Also, Appeals has reviewed previous misclassified cases to determine possible process improvements and has met with the Collection function and the IRS Office of Taxpayer Correspondence to discuss improvements to the initial CDP request notices sent to the taxpayer.

The Collection Statute Expiration Date Was Not Always Computed Correctly

We identified 19 taxpayer cases (14 CDP and five EH cases) that had an incorrect Collection Statute Expiration Date (CSED) in our two statistical samples. In three of the CDP cases, the IRS incorrectly exceeded the CSED time period, allowing the IRS additional time it should not have had to collect the delinquent taxes. Therefore, we project a total of 1,464 of the 34,155 CDP taxpayer cases closed in FY 2014 may have an incorrect CSED and taxpayer cases had time extended in error.¹⁶ In 11 CDP cases, the IRS incorrectly decreased the time to collect the delinquent taxes. As a result, we project a total of 5,367 of the 34,155 CDP taxpayer cases closed in FY 2014 may have had the collection time inappropriately shortened.¹⁷

¹³ TIGTA, Ref. No. 2012-10-077, *Office of Appeals Errors in the Handling of Collection Due Process Cases Continue to Exist* (July 2012).

¹⁴ The Office of Taxpayer Correspondence is the IRS hub for comprehensive correspondence services — from design and development to effectiveness and downstream impact. This office provides consistency, quality, and plain language for notices and letters.

¹⁵ TIGTA, Ref. No. 2014-10-049, *Review of the Office of Appeals Collection Due Process Program* (Aug. 2014).

¹⁶ The point estimate projection is based on a two-sided 90 percent confidence interval. We are 90 percent confident that the point estimate is between 402 taxpayers and 3,656 taxpayers.

¹⁷ The point estimate projection is based on a two-sided 90 percent confidence interval. We are 90 percent confident that the point estimate is between 3,098 taxpayers and 8,425 taxpayers.



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Additionally, we identified five EH cases that had an incorrect CSED. In the five taxpayer cases, the incorrect CSED reduced the IRS's time to collect any outstanding balance from the taxpayer. Therefore, we project a total of 508 EH taxpayer cases closed in FY 2014 had an incorrect CSED and the collection time was inappropriately shortened.¹⁸ The number of CSED errors has increased from the last review, in which we identified a total of 12 CSED errors.¹⁹

The IRS generally has 10 years from the date of assessment to collect a liability owed by a taxpayer. The CSED is the expiration of the time period established by law to collect taxes. Because the IRS usually stops collection activity during the Appeals process, the CSED is temporarily suspended during a CDP hearing. Specifically, 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 IRS receives the taxpayer's withdrawal request. However, the CSED should not be suspended for an EH hearing.

When the IRS suspends the collection statute for a period longer than its policy allows, it potentially violates taxpayer rights. Conversely, when the CSEDs are incorrectly shortened, the IRS has less time to collect delinquent taxes, which could cause a potential loss of tax revenue. Incorrect CSED dates resulted from IRS employees incorrectly calculating the suspension start or stop date.²⁰

Our reviews have identified that the code needed to designate the start of the collection statute suspension was not always input correctly or the suspension end date was incorrect. The statute suspension is systemically controlled on the Integrated Data Retrieval System.²¹ One code is entered to start the suspension, and another is entered to stop the suspension and restart the statute period. Generally, the code input to suspend the collection statute is entered by the Collection function; however, in certain instances, Appeals personnel are 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 Integrated Data Retrieval System will systemically recalculate the CSED based on the dates entered for the two codes (which generally reflect the length of the Appeals hearing and or the exhaustion of any rights to appeal following judicial review).

Appeals management agreed with the number of CSED exceptions and informed us that they would correct the accounts of those taxpayers with incorrect CSEDs.

¹⁸ The point estimate projection is based on a two-sided 90 percent confidence interval. We are 90 percent confident that the point estimate is between 203 taxpayers and 1,026 taxpayers.

¹⁹ TIGTA, Ref. No. 2014-10-049, *Review of the Office of Appeals Collection Due Process Program* (Aug. 2014).

²⁰ The statute of limitations is suspended from the date the IRS receives a timely filed request for a CDP hearing to the date the taxpayer's withdrawal is received by the IRS or the date the determination from Appeals becomes final, including any court appeals.

²¹ IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.



Recommendation

Recommendation 1: The Chief, Appeals, should review and correct the 19 taxpayer accounts that we identified with CSED errors.

Management’s Response: IRS management agreed with this recommendation and stated that they have reviewed the identified accounts and have initiated corrections to the errors.

Hearing Officers Did Not Always Document Their Impartiality in Final Notification Letters Sent to Taxpayers

During this review, we identified a total of four of the 140 taxpayer cases in our two statistically valid samples did not include impartiality statements documented in the final notification letters sent to taxpayers. *****1*****. The law requires that a CDP hearing be conducted by an impartial hearing officer who has had no prior involvement with the unpaid tax.²² Additionally, for part of this review, the Internal Revenue Manual required Appeals hearing officers to include the impartiality statement in the Determination, Decision, Waiver, and Withdrawal final notification letters sent to the taxpayers. While we found that hearing officers properly documented the impartiality statement in the Case Activity Records, in four cases, Appeals did not include required impartiality statements in final notification letters.

*****1*****
*****1*****.²³ *****1*****
*****1*****. We project that 1,464 of the 34,155 CDP taxpayer cases may not have contained the required impartiality statement in the final Determination or Waiver letters sent to the taxpayer.²⁴

*****1*****
*****1*****. We estimate that 102 of the 7,111 EH taxpayer cases may not have contained the required impartiality statement in the final notification letters sent to the taxpayer.²⁵ Appeals management agreed with the number of errors regarding documentation of impartiality.

²² 26 U.S.C. §§ 6320 and 6330(b)(3).

²³ Appeals CDP Determination and EH Decision letters are issued with an attachment, which provides the taxpayer a substantive discussion of the CDP hearing.

²⁴ The point estimate projection is based on a two-sided 90 percent confidence interval. We are 90 percent confident that the point estimate is between 402 taxpayers and 3,656 taxpayers.

²⁵ The point estimate projection is based on a two-sided 90 percent confidence interval. We are 90 percent confident that the point estimate is between 5 taxpayers and 469 taxpayers.



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Appeals management informed us that some initial contact letters contain impartiality language and that significant steps have been taken to address the lack of impartiality statement documentation in closing letters. The old versions of the Waiver Letter and the Withdrawal Letter without impartiality language have been disabled on their website and the settlement officers are referred to the IRS published catalog of letters for using the updated versions with impartiality statements. Additionally, Appeals management has informed us that the Appeals Centralized Database System²⁶ has been updated to systemically generate new versions of the Withdrawal letter and the new programming for the Waiver letter is still pending.

We are not making a recommendation at this time because Appeals management has already taken steps to address the notification issue. Including impartiality statements in Appeals closing correspondence is a key procedure because it ensures that taxpayers understand that their requests are reviewed by an impartial hearing officer.

²⁶ A computerized case control system used to control and track cases throughout the appeals process.



Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine whether the IRS complied with 26 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 or issuance of a Notice of Intent to Levy. To accomplish this objective, we:

- I. Determined whether any new procedures or processes have been developed since the prior TIGTA statutory review.
- II. Selected a statistically valid sample of closed CDP and EH taxpayer cases, obtained the Appeals case and IRS Administrative files, and determined whether the Office of Appeals (Appeals) had completed case files.
 - A. Obtained an extract of the Appeals Centralized Database System¹ file maintained at TIGTA's Data Center Warehouse² of 34,155 CDP and 7,111 EH taxpayer cases closed during FY 2014 (October 1, 2013, through September 30, 2014). We evaluated the sufficiency and reliability of the electronic data received from the IRS to ensure that the data field descriptions were accurately stated. We validated the extract by reviewing the appropriateness of data within fields requested and comparing population totals to information obtained from Appeals officials.
 - B. Selected³ and secured closed CDP and EH taxpayer cases for our statistical samples. We reviewed statistical samples of 70 CDP randomly selected taxpayer cases (45 sample cases from a population of 21,813 Service Center refiled cases and 25 sample cases from a population of 12,309 Federal Record Center stored cases). We also reviewed statistical samples of 70 EH randomly selected taxpayer cases (46 sample cases from a population of 4,628 Service Center refiled cases and 24 sample cases from a population of 2,476 Federal Record Center stored cases). We used a confidence level of 90 percent, a precision level of ± 6 percent, and an expected error rate of 10 percent to determine these sample sizes. We discussed our sampling methodology with our contracted statistician, who reviewed our projections.
- III. Determined whether Appeals CDP and EH taxpayer cases were classified correctly using the CDP and the EH statistical samples reviewed in Step II.B. We also determined

¹ A computerized case control system used to control and track cases throughout the appeals process.

² 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.

³ TIGTA used a stratified sampling methodology to select four statistical samples based on type and location of CDP and EH closed case files.



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whether the CSED was calculated correctly on the taxpayer's account on the Integrated Data Retrieval System⁴ based on the type of hearing granted for the 140 sample cases we reviewed.

- IV. Determined whether Appeals was in compliance with 26 U.S.C. §§ 6320(b) and (c) and 6330(b) and (c) using the CDP and the EH statistical samples selected in Step II.B. by reviewing case file information to determine whether Appeals documented that the taxpayer was provided with an impartial hearing officer or waived this requirement [26 U.S.C. §§ 6320(b)(3) and 6330(b)(3)].

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 status of policies and procedures in the CDP Program and the IRS policies and procedures for classifying CDP and EH taxpayer cases, ensuring that hearing officers met the criteria specified in 26 U.S.C. §§ 6320 and 6330, and reviewing applicable computer codes on the Integrated Data Retrieval System for CDP and EH taxpayer cases. We evaluated these controls by selecting a statistical sample of CDP and EH taxpayer cases, reviewing documentation, and discussing potential exceptions with Appeals officials.

⁴ 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

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Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Deputy Commissioner for Services and Enforcement SE
Chief Counsel CC
National Taxpayer Advocate TA
Director, Office of Program Evaluation and Risk Analysis RAS:O
Director, Office of Audit Coordination OS:PPAC:AC
Office of Internal Control OS:CFO:CPIC:IC
Audit Liaison: Chief, Appeals AP



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 and Entitlements – Potential; 1,464 taxpayer cases contain CDP hearing requests that were received late and were not properly classified as an EH case (see page 3).

Methodology Used to Measure the Reported Benefit:

For the CDP statistical sample, we used a computer extract from the Appeals Centralized Database System¹ and identified a population of 34,155 CDP taxpayer cases that were closed in FY 2014. We further stratified the population by location of closed case file and identified populations of 21,813 cases that were closed and refiled to Service Center locations and 12,309 cases that were closed and stored in a Federal Records Center.² We reviewed a statistically valid sample of 70 CDP taxpayer cases (45 cases from the Service Centers and 25 cases from the Federal Records Center). We found that three of these CDP taxpayer case files contained a CDP request that was misclassified. We estimate that 4.3 percent of the taxpayer cases in the population (1,464 taxpayer cases) may have contained misclassified CDP taxpayer requests. When CDP taxpayer cases are misclassified, taxpayers receive hearing rights to which they are not legally entitled. Using the Exact Binomial Method, we are 90 percent confident that the point estimate is between 402 taxpayers and 3,656 taxpayers and the true exception rate is between 1.2 percent and 10.7 percent.

¹ A computerized case control system used to control and track cases throughout the appeals process.

² In FY 2014, Appeals closed a total of 34,155 CDP only cases. Per Appeals Centralized Database System, a total of 21,813 closed cases were returned to Service Centers, 12,309 cases were returned to Collection Revenue Officers, and 33 cases were returned to IRS Exam and Exempt organization employees.



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Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 610 taxpayer cases contain EH requests that were received timely and were not properly classified as a CDP case (see page 3).

Methodology Used to Measure the Reported Benefit:

For the EH statistical sample, we used a computer extract from the Appeals Centralized Database System and identified a population of 7,111 EH taxpayer cases that were closed in FY 2014. We further stratified the population by location of closed case file and identified populations of 4,628 cases that were closed and refiled to Service Center locations and 2,476 cases that were closed and stored in a Federal Records Center.³ We reviewed a statistically valid sample of 70 EH taxpayer cases (46 cases from the Service Centers and 24 cases from the Federal Records Center). We found that six of these EH taxpayer case files contained an EH request that was misclassified based on timeliness or misprocessing. We estimate that 8.6 percent of the taxpayer cases in the population (610 taxpayer cases) may have contained misclassified EH taxpayer requests. When EH taxpayer cases are misclassified, taxpayers do not receive hearing rights to which they are legally entitled. Using the Exact Binomial Method, we are 90 percent confident that the point estimate is between 270 taxpayers and 1,153 taxpayers and the true exception rate is between 3.8 percent and 16.2 percent.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 1,464 taxpayer cases in which taxpayers had CDP CSEDs that were inappropriately extended longer than the length of the hearing (see page 4).

Methodology Used to Measure the Reported Benefit:

For the CDP statistical sample, we used a computer extract from the Appeals Centralized Database System and identified a population of 34,155 CDP taxpayer cases that were closed in FY 2014. We further stratified the population by location of closed case file and identified populations of 21,813 cases that were closed and refiled to Service Center locations and 12,309 cases that were closed and stored in a Federal Records Center. We reviewed a statistically valid sample of 70 CDP taxpayer cases (45 cases from the Service Centers and 25 cases from the Federal Records Center). We found that three of these CDP taxpayer case files contained instances in which the taxpayer's CSED had been suspended longer than the length of the CDP hearing. We estimate that 4.3 percent of the taxpayer cases in the population (1,464 taxpayer cases) had an incorrect CSED posted to taxpayer records. A CSED extended in

³ In FY 2014, the Office of Appeals closed a total of 7,111 EH only cases. Per the Appeals Centralized Database System, a total of 4,628 closed cases were returned to Service Centers, 2,476 cases were returned to Collection function revenue officers, and seven cases were returned to IRS Examination function and Exempt organization employees.



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error for a taxpayer case provides the IRS more time than legally allowed to collect the delinquent taxes. Using the Exact Binomial Method, we are 90 percent confident that the point estimate is between 402 taxpayers and 3,656 taxpayers and the true exception rate is between 1.2 percent and 10.7 percent.

Type and Value of Outcome Measure:

- Increased Revenue – Potential; 5,367 taxpayer cases indicated taxpayers had CDP CSEDs that were not correctly extended for the length of the CDP hearing (see page 4).

Methodology Used to Measure the Reported Benefit:

For the CDP statistical sample, we used a computer extract from the Appeals Centralized Database System and identified a population of 34,155 CDP taxpayer cases that were closed in FY 2014. We further stratified the population by location of closed case file and identified populations of 21,813 cases that were closed and refiled to Service Center locations and 12,309 cases that were closed and stored in a Federal Records Center. We reviewed a statistically valid sample of 70 CDP taxpayer cases (45 cases from the Service Centers and 25 cases from the Federal Records Center). We found that 11 of these CDP taxpayer case files contained an incorrect CSED and collection time was inappropriately shortened. We estimate that 15.7 percent of the taxpayer cases in the population (5,367 taxpayer cases) had an incorrect CSED posted to taxpayer records. A CSED shortened in error for a taxpayer case provides the IRS less time than legally allowed to collect the delinquent taxes, which may result in the loss of revenue for the IRS. Using the Exact Binomial Method, we are 90 percent confident that the point estimate is between 3,098 taxpayers and 8,425 taxpayers and the true exception rate is between 9.1 percent and 24.7 percent.

Type and Value of Outcome Measure:

- Increased Revenue – Potential; 508 taxpayer cases in which EH taxpayers had an incorrect CSED posted to their taxpayer accounts (see page 4).

Methodology Used to Measure the Reported Benefit:

For the EH statistical sample, we used a computer extract from the Appeals Centralized Database System and identified a population of 7,111 EH taxpayer cases that were closed in FY 2014. We further stratified the population by location of closed case file and identified populations of 4,628 cases that were closed and refiled to Service Center locations and 2,476 cases that were closed and stored in a Federal Records Center. We reviewed a statistically valid sample of 70 EH taxpayer cases (46 cases from the Service Centers and 24 cases from the Federal Records Center). We found that five of these EH taxpayer case files contained an incorrect CSED and collection time was inappropriately shortened. We estimate that 7.1 percent of the taxpayer cases in the population (508 taxpayer cases) had an incorrect CSED posted to taxpayer records. A CSED shortened in error for a taxpayer case provides the IRS less time than legally allowed to



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collect the delinquent taxes, which may result in the loss of revenue for the IRS. Using the Exact Binomial Method, we are 90 percent confident that the point estimate is between 203 taxpayers and 1,026 taxpayers and the true exception rate is between 2.9 percent and 14.4 percent.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 1,464 CDP taxpayer cases did not contain the impartiality statement documented on the final notification letters issued to the taxpayer (see page 6).
- Taxpayer Rights and Entitlements – Potential; 102 EH taxpayer cases did not contain the impartiality statement documented on the final notification letter issued to the taxpayer (see page 6).

Methodology Used to Measure the Reported Benefit:

For the CDP statistical sample, we used a computer extract from the Appeals Centralized Database System and identified a population of 34,155 CDP taxpayer cases that were closed in FY 2014. We further stratified the population by location of closed case file and identified populations of 21,813 cases that were closed and refiled to Service Center locations and 12,309 cases that were closed and stored in a Federal Records Center. We reviewed a statistically valid sample of 70 CDP taxpayer cases (45 cases from the Service Centers and 25 cases from the Federal Records Center). We found that three of these CDP taxpayer case files did not contain an impartiality statement in the final notification letters issued to the taxpayer. We estimate that 4.3 percent of the taxpayer cases in the population (1,464 CDP taxpayer cases) did not contain an impartiality statement. Using the Exact Binomial Method, we are 90 percent confident that the point estimate is between 402 taxpayers and 3,656 taxpayers and the true exception rate is between 1.2 percent and 10.7 percent.

For the EH statistical sample, we used a computer extract from the Appeals Centralized Database System and identified a population of 7,111 EH taxpayer cases that were closed in FY 2014. We further stratified the population by location of closed case file and identified populations of 4,628 cases that were closed and refiled to Service Center locations and 2,476 cases that were closed and stored in a Federal Records Center. We reviewed a statistically valid sample of 70 EH taxpayer cases (46 cases from the Service Centers and 24 cases from the Federal Records Center). *****1*****. We estimate that 1.4 percent of the taxpayer cases in the population (102 EH taxpayer cases) did not contain an impartiality statement. Using the Exact Binomial Method, we are 90 percent confident that the point estimate is between five taxpayers and 469 taxpayers and the true exception rate is between 0.1 percent and 6.6 percent.



Appendix V

Collection Due Process Procedures

The IRS is required to notify taxpayers in writing when 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.

The Hearing Request

This hearing request must be received:¹

- Within 30 calendar days plus five business days of the filing of a lien.
- Within 30 calendar days of the date of the Notice of Intent to Levy.
- Within 30 calendar days of the date of the first CDP Notice provided for that tax and tax period.

If a taxpayer's hearing request is submitted on time, the IRS will:

- Suspend all collection efforts.
- Provide the taxpayer with a CDP hearing by the Office of Appeals (Appeals).

If a taxpayer's hearing request is not submitted timely, the IRS has authority to:

- Provide the taxpayer with an EH that considers the same issues as in a CDP hearing for both liens and levies.
- Prevent suspension of collection action.
- Prohibit the taxpayer from petitioning the right to a judicial review.

Conducting the Hearing

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.

¹ See Appendix VI for more specific information on the time periods for CDP hearing and EH requests.



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- 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.
- Decide if other collection alternatives would facilitate the payment of the tax.
- 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.

Hearing Decisions

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 Action(s) Under Section 6320 and/or 6330 of the IRC*, which provides an explanation of the right to a judicial review. If the taxpayer disagrees with the Appeals decision, he or she may petition the courts.
- For an EH case, the taxpayer receives a Letter 3210, *Decision Letter on Equivalent Hearing Under IRC Sections 6320 and/or 6330*. If the taxpayer disagrees with the Appeals decision in an EH, he or she may not petition the courts.
- For both applicable CDP and EH cases, the taxpayer may receive:
 - Form 12257, *Summary Notice of Determination, Waiver of Right to Judicial Review of a Collection Due Process Determination, Waiver of Suspension of Levy Action, and Waiver of Periods of Limitation in Section 6330(e)(1)*. Waiver Form 12257 and Closing Letter 4382 are applicable when the taxpayer:
 - Agrees with Appeals;
 - Waives the right to a judicial review; and
 - Waives the suspension of collection action.
 - Form 12256, *Withdrawal of Request for Collection Due Process or Equivalent Hearing*. Withdrawal Form 12256 and Closing Letter 4383 are applicable when the taxpayer:
 - Has reached a resolution with the IRS regarding the tax and tax periods; and



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- Is otherwise satisfied that a hearing with Appeals is no longer needed.
- The CDP or EH case is generally reviewed by the hearing officer's manager at the completion of the case to evaluate whether the hearing officer's case actions were complete, accurate, and resulted in a quality decision.²

Jurisdiction

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.

² Per Appeals Delegation Order APP-193-1, managerial approval of a CDP determination is not required when the only issue raised is a collection alternative and that issue is resolved with a streamlined installment agreement.



Appendix VI

Time Periods for Collection Due Process and Equivalent Hearings

Taxpayers must appeal within certain deadlines to qualify for either a CDP hearing or an EH, depending on whether the taxpayer is appealing a proposed levy or a tax lien.¹

CDP Deadlines

- Lien Notice – A request for a CDP hearing for a Federal tax lien filing must be postmarked by the date indicated in the Letter 3172, *Notice of Federal Tax Lien Filing and Your Rights to a Hearing Under IRC 6320*.
- Levy Notice – A request for a CDP hearing for a levy must be postmarked within 30 days after the date of the Letter 11/1058, *Final Notice - Notice of Intent to Levy and Notice of Your Right to a Hearing*.

EH Deadlines

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

- Lien Notice – one year plus five business days from the filing date of the Notice of Federal Tax Lien.
- Levy Notice – one year from the date of the levy notice.

Timeliness Considerations

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

Source: Publication 1660, Collection Appeal Rights (Rev. 02-2014).

¹ Form 12153, *Request for a Collection Due Process or Equivalent Hearing* (Rev. 3-2012), explains the deadlines for requesting a CDP hearing or an EH. Regulations also specify that the written request for a CDP hearing must be sent, or hand delivered (if permitted), to the IRS office and address as directed on the CDP Notice (26 CFR § 301.6330-1, Q C-6, Nov. 16, 2006).



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Appendix VII

*Prior Mandatory Collection
Due Process Audit Reports*

Prior TIGTA audits of the Appeals CDP performed during FYs 2010 through 2014.

- **FY 2010** – TIGTA, Ref. No. 2010-10-075, *The Office of Appeals Has Improved Compliance Within Its Collection Due Process Program; However, Some Improvement Is Still Needed* (July 2010).
- **FY 2011** – TIGTA, Ref. No. 2011-10-062, *Additional Improvements Are Needed in the Office of Appeals Collection Due Process Program to Ensure Statutory Requirements Are Met* (Aug. 2011).
- **FY 2012** – TIGTA, Ref. No. 2012-10-077, *Office of Appeals Errors in the Handling of Collection Due Process Cases Continue to Exist* (July 2012).
- **FY 2013** – TIGTA, Ref. No. 2013-10-103, *The Office of Appeals Continues to Experience Difficulties in the Handling of Collection Due Process Cases* (Sept. 2013).
- **FY 2014** – TIGTA, Ref. No. 2014-10-049, *Review of the Office of Appeals Collection Due Process Program* (Aug. 2014).



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Appendix VIII

Management's Response to the Draft Report



CHIEF, APPEALS

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

August 5, 2015

MEMORANDUM FOR MICHAEL E. McKENNY
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Kirsten B. Wielobob 
Chief, Appeals

Subject: Draft Audit Report – Fiscal Year 2015 Review of the Office of Appeals
Collection Due Process Program (Audit # 201510004)

Thank you for the opportunity to review and comment on the draft audit report of the
Collection Due Process program. Appeals agrees with your recommendation. Please
see our attached response.

If you have any questions, please have a member of your staff contact John V.
Cardone, Director, Appeals, Policy, Quality and Case Support, at 202-317-8830.

Attachment



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Attachment

Recommendation 1:

The Chief, Appeals, should review and correct the 19 taxpayer accounts that we identified with CSED errors.

Proposed Corrective Action:

Appeals agrees with this recommendation. We have reviewed the 19 taxpayer accounts and initiated corrections to all of the CSED errors. Posting is complete on 7 of the accounts. We will monitor the remaining accounts until remaining processing cycles are complete, anticipated to be before September.

Implementation Date: October 15, 2015

Responsible Official: Director, Appeals Policy, Quality and Case Support