
TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



*The Office of Appeals Has
Improved Compliance Within the
Collection Due Process Program*

August 30, 2016

Reference Number: 2016-10-064

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HIGHLIGHTS

THE OFFICE OF APPEALS HAS IMPROVED COMPLIANCE WITHIN THE COLLECTION DUE PROCESS PROGRAM

Highlights

Final Report issued on August 30, 2016

Highlights of Reference Number: 2016-10-064 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 a levy action that has been proposed or a 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

During this year's audit, TIGTA found that the Office of Appeals made improvements in the overall compliance in the Collection Due Process Program. However, TIGTA identified similar 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 two statistically valid samples, TIGTA identified **1** taxpayer cases that were misclassified. This is a decrease from the nine 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 **1** taxpayer cases identified, the IRS incorrectly extended the time period in **1** of the taxpayer cases, allowing the IRS additional time it should not have had to collect the delinquent taxes. In the remaining **1** taxpayer cases, the IRS incorrectly decreased the time to collect the delinquent taxes. TIGTA also identified

*****|*****
*****|*****
****1****.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Chief, Appeals, 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 that TIGTA identified.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

August 30, 2016

MEMORANDUM FOR CHIEF, APPEALS

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – The Office of Appeals Has Improved Compliance
Within the Collection Due Process Program (Audit # 201610001)

This report presents the result 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 2016 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 recommendations. 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
I.R.C.	Internal Revenue Code
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 I.R.C.*² 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 additional rights under lien and levy actions by the IRS.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. An effective process is necessary to ensure that statutory requirements are met and taxpayers' rights are protected. 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 that 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 and one year plus five business days after the filing date of the Notice of Federal Tax 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.

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

² The Internal Revenue Code (I.R.C.) is the body of law that codifies all Federal tax laws, including income, estate, gift, excise, alcohol, tobacco, and employment taxes. These laws constitute Title 26 of the 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. (2013)).

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



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When Appeals receives the taxpayer's hearing request, Appeals will generally issue one of the following acknowledgement or contact letters:

- **Acknowledgement Letter 4141** – *Case Received in Appeals – Acknowledgement Letter*, issued to the taxpayer documenting that the case has been received in Appeals and identifying the Appeals employee who is assigned to the case.⁷
- **Substantive Contact Letter 4837** – *Appeals Received Your Request for a Collection Due Process Hearing*, issued to the taxpayer documenting that the case has been received in Appeals and providing an opportunity to discuss the reasons for disagreement with the collection action or to discuss alternatives to the collection action.⁸

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

- **Determination Letter 3193** – *Notice of Determination Concerning Collection Actions Under Sections 6320 and 6330*, provides a taxpayer with the determination in his/her case and the right to appeal the determination in tax court.
- **Decision Letter 3210** – *Decision Letter on Equivalent Hearing Under I.R.C. Section 6320 and/or 6330*, issued to the taxpayer for only EH cases advising the taxpayer of the decision by Appeals and the matters and conclusions considered at the hearing.
- **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)*, issued to the taxpayer documenting that Appeals has concluded the CDP hearing and that during the hearing a signed Form 12257 was submitted by the taxpayer indicating agreement to waiving the right to judicial review and the suspension of levy action under Section 6330(e)(1).
- **Closing Letter 4383 With Form 12256** – *Withdrawal of Request for Collection Due Process or Equivalent Hearing*, issued to the taxpayer documenting that Appeals received the taxpayer request to withdraw from the CDP or EH.
- **Closing Letter 5145** – *Agreed Equivalent Hearing Closing Letter*, issued to the taxpayer documenting his/her agreement with the EH case decision.

Closing Letter 4382 is used when the taxpayer and the IRS agree on a viable collection

⁷ Letter 4141 was used by Appeals throughout the majority of our review; however, Appeals advised us that this letter became obsolete on June 9, 2015.

⁸ On June 9, 2015, Letter 4837, *Substantive Contact Uniform Acknowledgement Letter* replaced Letter 4836, *Substantive Contact Letter*.



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alternative.⁹ 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. Closing Letter 5145 is used only for agreed EH cases when taxpayers agree with the decision and case is to be returned to IRS Collection Office for actions consistent with the Appeals decision. During Fiscal Year¹⁰ (FY) 2015, Appeals closed 35,456 CDP cases and 7,049 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.¹¹ This is our sixteenth annual audit of taxpayer appeal rights.

The scope for this year's audit covered CDP and EH cases closed between October 1, 2014, and September 30, 2015. This review was performed by contacting Appeals personnel in St. Paul, Minnesota; Holtsville, New York; Greensboro, North Carolina; and Richmond, Virginia, during the period October 2015 through June 2016. 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.

⁹ 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.

¹⁰ Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.

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



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Results of Review

Some Taxpayers Did Not Receive the Appropriate Type of Hearing

During this year’s audit, we found that Appeals made improvements in the overall compliance in the CDP Program. However, we identified similar deficiencies in the IRS’s processing of Collection Due Process cases as previously reported. Specifically, Appeals did not always classify taxpayer requests properly and, as a result, some taxpayers received the wrong type of hearing. The law allows taxpayers the right to appeal a proposed levy or the filing of a Federal tax lien; however, taxpayers must comply with specific time frames to qualify for a CDP hearing or an EH.¹² During this review, we identified **1** taxpayer cases (*****1*****) that were misclassified in our two statistically valid samples of 70 CDP and 70 EH taxpayer cases. This is a decrease from the nine misclassified taxpayer cases that we identified in our prior review.¹³

For the *****1*****
*****1*****
*****1*****¹⁴*****
*****1*****¹⁵*****
*****1*****. Based on the one error identified in the 70 CDP taxpayer cases we reviewed, we project from the total population that an estimated ***1**of 35,456 taxpayer cases may have incorrectly received a CDP hearing during FY 2015.¹⁶

In addition, we identified *****1*****
*****1*****
*****1**:

- *****1*****
*****1*****

¹² See Appendix VI for more specific information on the time periods for CDP hearings and EH requests.
¹³ TIGTA, Ref. No. 2015-10-068, Review of the Office of Appeals Collection Due Process Program (Aug. 2015).
¹⁴ 26 U.S.C. §§ 6320 (3)(b) and 26 C.F.R. 301.6320-1. The IRS must notify taxpayers within five business days after filing a Federal tax lien. Taxpayers then have 30 days, after that five-day period, to request a CDP hearing with Appeals. Taxpayers who want an EH concerning the filing of the Notice of Federal Tax Lien must request the hearing within the one-year period commencing the day after the end of the five-business-day period following the filing of the Notice of Federal Tax Lien.
¹⁵ 26 U.S.C. §§ 6320 and 6330(b)(2).
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 **1** taxpayers and ***1*** taxpayers.



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35,456 CDP taxpayer cases closed in FY 2015 may have an incorrect CSED and taxpayer cases had time extended in error.²¹ In ***1****, the IRS incorrectly decreased the time to collect the delinquent taxes. As a result, we project a total of **1** of the 35,456 CDP taxpayer cases closed in FY 2015 may have had the collection time inappropriately shortened.²²

*****1*****
*****1*****. Therefore, we project a total of **1** of the 7,049 EH taxpayer cases closed in FY 2015 had an incorrect CSED and the collection time was inappropriately shortened.²³ The number of CSED errors has decreased from the last review, in which we identified a total of 19 CSED errors.²⁴

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.²⁵

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.²⁶ One code is entered to start the suspension, and another code 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

²¹ 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 **1** taxpayers and ***1*** taxpayers.

²² 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 **1** taxpayers and ***1*** taxpayers.

²³ 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 **1** taxpayers and ***1*** taxpayers.

²⁴ TIGTA, Ref. No. 2015-10-068, *Review of the Office of Appeals Collection Due Process Program* (Aug. 2015).

²⁵ 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.

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



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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.

Recommendation

Recommendation 1: The Chief, Appeals, should review and correct the 10 taxpayer accounts that we identified with CSED errors.

Management's Response: Appeals agreed with this recommendation. Appeals has reviewed the 10 taxpayer accounts identified in this report and has initiated the necessary corrective actions. Posting is complete on **1** of the accounts, and Appeals noted that *****. Appeals will monitor the remaining **1** accounts until remaining processing cycles are completed. It anticipates completion by September 2016.

Hearing Officers Did Not Always Document Their Impartiality As Required

*****1*****. We project that **1** of the 7,049 EH taxpayer cases closed in FY 2015 may not contain the required impartiality statement in the Case Activity Record.27 However, we found that hearing officers properly documented the impartiality statement in the remaining **1** Case Activity Records as well as the CDP Notices of Determination and the EH Decision Letters issued to the taxpayers for all of the taxpayer cases we reviewed.28

Appeals Management agreed *****1*****. We did not make a recommendation *****1*****.

27 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 **1** taxpayers and **1** taxpayers.
28 The IRS is required by law to issue a Determination Letter 3193 at the conclusion of a CDP hearing.



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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 Appeals had completed case files.
 - A. Obtained an extract of the Appeals Centralized Database System.¹ The file is maintained at TIGTA's Data Center Warehouse.² We identified that 35,456 CDP and 7,049 EH taxpayer cases were closed during FY³ 2015 (October 1, 2014, through September 30, 2015). 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. Selected and secured closed CDP and EH taxpayer cases for our statistical samples.⁴ We reviewed statistical samples of 70 CDP randomly selected taxpayer cases (48 sample cases from a population of 24,011 Service Center refiled cases and 22 sample cases from a population of 11,396 Federal Record Center stored cases). We also reviewed statistical samples of 70 EH randomly selected taxpayer cases (48 sample cases from a population of 4,822 Service Center refiled cases and 22 sample cases from a population of 2,216 Federal Record Center stored cases). We used a confidence level of 90 percent, a precision level of ± 6 percent, and an expected

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 Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.

⁴ 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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- 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 whether the CSED was calculated correctly on the taxpayer's account on the Integrated Data Retrieval System⁵ 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.C 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 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 closed case file documentation, and discussing potential exceptions with Appeals officials.

⁵ 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

Gregory D. Kutz, Assistant Inspector General for Audit (Management Services and Exempt Organizations)

Jonathan T. Meyer, Director

Janice M. Pryor, Audit Manager

Mark A. Judson, Lead Auditor



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Appendix III

Report Distribution List

Commissioner
Office of the Commissioner – Attn: Chief of Staff
Deputy Commissioner for Services and Enforcement
Deputy Chief, Appeals
Director, Office of Audit Coordination



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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 and Entitlements – Potential; **1** taxpayer cases contain CDP hearing requests that were provided based on a second Notice of Intent to Levy. These taxpayers failed to request the CDP hearing within 30 days of the date of the first Notice of Intent to Levy provided for that tax and tax period (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 System¹ and identified a population of 35,456 CDP taxpayer cases that were closed in FY² 2015. We further stratified the population by location of closed case file and identified populations of 24,011 cases that were returned to Service Center locations and 11,396 cases that were returned and refiled in a Federal Records Center.³ We reviewed a statistically valid sample of 70 CDP taxpayer cases (48 cases from the Service Centers and 22 cases from the Federal Records Center). *****1*****. We estimate that **1** percent of the taxpayer cases in the population (507 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 **1** taxpayers and **1** taxpayers and the true exception rate is between **1** percent and **1** percent.

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

² Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.

³ In FY 2015, Appeals closed a total of 35,456 CDP only cases. Per the Appeals Centralized Database System, a total of 24,011 closed cases were returned to Service Centers, 11,396 cases were returned to Collection Revenue Officers, and 49 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; **1** taxpayer cases contain EH requests that were received timely and were not properly classified as a CDP case and/or were misprocessed by Appeals (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 7,049 EH taxpayer cases that were closed in FY 2015. We further stratified the population by location of closed case file and identified populations of 4,822 cases that were closed and refiled to Service Center locations and 2,216 cases that were closed and stored in a Federal Records Center.⁴ We reviewed a statistically valid sample of 70 EH taxpayer cases (48 cases from the Service Centers and 22 cases from the Federal Records Center). We found that **1** of these EH taxpayer case files contained an EH request that was misclassified based on timeliness or misprocessing. We estimate that **1** percent of the taxpayer cases in the population (**1** 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 **1** taxpayers and **1** taxpayers and the true exception rate is between **1** percent and **1** percent.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; **1** taxpayer cases for which CDP taxpayers had an incorrect CSED posted to their taxpayer account (see page 5).

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 35,456 CDP taxpayer cases that were closed in FY 2015. We further stratified the population by location of closed case file and identified populations of 24,011 cases that were closed and refiled to Service Center locations and 11,396 cases that were closed and stored in a Federal Records Center. We reviewed a statistically valid sample of 70 CDP taxpayer cases (48 cases from the Service Centers and 22 cases from the Federal Records Center). We found that **1** of these CDP taxpayer case files contained an incorrectly applied CSED that inappropriately suspended the taxpayer's CSED. We estimate that **1** percent of the taxpayer cases in the population (**1** taxpayer cases) had an incorrect CSED posted to taxpayer records. A CSED extended in error for a taxpayer case provides the IRS more time than legally allowed to collect the delinquent taxes.

⁴ In FY 2015, Appeals closed a total of 7,049 EH only cases. Per the Appeals Centralized Database System, a total of 4,822 closed cases were returned to Service Centers, 2,216 cases were returned to Collection Revenue Officers, and 11 cases were returned to IRS Exam and Exempt organization employees.



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Using the Exact Binomial Method, we are 90 percent confident that the point estimate is between **1** taxpayers and **1** taxpayers and the true exception rate is between **1** percent and **1** percent.

Type and Value of Outcome Measure:

- Increased Revenue – Potential; **1** taxpayer cases indicated taxpayers had CDP CSEDs that were not correctly extended for the length of the CDP hearing (see page 5).

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 35,456 CDP taxpayer cases that were closed in FY 2015. We further stratified the population by location of closed case file and identified populations of 24,011 cases that were closed and refiled to Service Center locations and 11,396 cases that were closed and stored in a Federal Records Center. We reviewed a statistically valid sample of 70 CDP taxpayer cases (48 cases from the Service Centers and 22 cases from the Federal Records Center). We found that **1** of these CDP taxpayer case files contained an incorrect CSED and collection time was inappropriately shortened. We estimate that **1** percent of the taxpayer cases in the population (2,026 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 **1** taxpayers and **1** taxpayers and the true exception rate is between **1** percent and **1** percent.

Type and Value of Outcome Measure:

- Increased Revenue – Potential; **1** taxpayer cases for which EH taxpayers had an incorrect CSED posted to their taxpayer accounts (see page 5).

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 7,049 EH taxpayer cases that were closed in FY 2015. We further stratified the population by location of closed case file and identified populations of 4,822 cases that were closed and refiled to Service Center locations and 2,216 cases that were closed and stored in a Federal Records Center. We reviewed a statistically valid sample of 70 EH taxpayer cases (48 cases from the Service Centers and 22 cases from the Federal Records Center). *****1*****. We estimate that **1** percent of the taxpayer cases in the population (**1** 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



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IRS. Using the Exact Binomial Method, we are 90 percent confident that the point estimate is between 1 taxpayers and 463 taxpayers and the true exception rate is between 1 percent and 1 percent.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 1 EH taxpayer cases did not contain the impartiality statement documented in the Case Activity Record (see page 7).

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 7,049 EH taxpayer cases that were closed in FY 2015. We further stratified the population by location of closed case file and identified populations of 4,822 cases that were closed and refiled to Service Center locations and 2,216 cases that were closed and stored in a Federal Records Center. We reviewed a statistically valid sample of 70 EH taxpayer cases (48 cases from the Service Centers and 22 cases from the Federal Records Center). 1 We estimate that 1 percent of the taxpayer cases in the population (1 EH taxpayer cases) did not contain a required impartiality statement. Using the Exact Binomial Method, we are 90 percent confident that the point estimate is between 1 taxpayers and 1 taxpayers and the true exception rate is between 1 percent and 1 percent.



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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 follows the same procedures 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 hearings 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 Actions Under Section 6320 and/or 6330 of the I.R.C.*, 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 I.R.C. 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)*. 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*. 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
 - Is otherwise satisfied that a hearing with Appeals is no longer needed.



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- Letter 5145, *Agreed Equivalent Hearing Closing Letter*, is applicable when the taxpayer:
 - Has agreed with the EH case decision; and
 - Has not raised any issues with the timeliness of the hearing request.²
- 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.³

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 As of December 2014, Appeals created Letter 5145 to be used for EH cases for which the taxpayer and Appeals reach an agreement.

³ 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.



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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

Collection Due Process 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 I.R.C. 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*.

Equivalent Hearing 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 C.F.R. § 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 2011 through 2015:

- **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).
- **FY 2015** – TIGTA, Ref. No. 2015-10-068, *Review of the Office of Appeals Collection Due Process Program* (Aug. 2015).



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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

AUG 05 2016

MEMORANDUM FOR MICHAEL E. MCKENNEY
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Kirsten B. Wielobob 
Chief, Appeals

SUBJECT: Draft Audit Report – Fiscal Year 2016 -- The Office of Appeals
Has Improved Compliance within the Collection Due Process
Program (Audit #201610001)

Thank you for the opportunity to review and comment on the draft report of the Collection Due Process program audit. We agree with your recommendation and appreciate your recognition of our improvements in this area. Please see our attached response.

If you have any questions, please have a member of your staff contact John V. Cardone, Director of 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 10 taxpayer accounts that we identified with CSED errors.

Proposed Corrective Action:

Appeals agrees with this recommendation. Appeals has reviewed the 10 taxpayer accounts identified in this report and has initiated the necessary corrective actions. Posting is complete on five of the accounts, and we note *****1*****. We will monitor the remaining four accounts until remaining processing cycles are completed. We anticipate their completion by September 2016.

Implementation Date: October 15, 2016

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