



*The Office of Appeals Continues to Show
Improvement in Processing
Collection Due Process Cases*

September 12, 2008

Reference Number: 2008-10-160

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

Redaction Legend:

1 = Tax Return/Return Information



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

September 12, 2008

MEMORANDUM FOR CHIEF, APPEALS

FROM:

Michael R. Phillips

Michael R. Phillips

Deputy Inspector General for Audit

SUBJECT:

Final Audit Report – The Office of Appeals Continues to Show
Improvement in Processing Collection Due Process Cases
(Audit # 200810003)

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

Impact on the Taxpayer

The Office of Appeals (Appeals) has continued to improve the processing of CDP cases as a whole by generally classifying taxpayer requests properly, developing additional CDP procedures, and ensuring that the Collection Statute Expiration Dates⁴ for taxpayer accounts were correct. However, we identified a few instances in which taxpayers were not provided with their right to a hearing because Appeals employees did not make sufficient attempts to contact the taxpayers before closing their cases. Additionally, correspondence to some taxpayers was

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

² 26 U.S.C. Sections (§§) 6320 and 6330 (Supp. III 2000).

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

⁴ The date when the statute of limitations for collection of an outstanding balance expires. The statutory period for collecting a tax is normally 10 years from the date of assessment (26 U.S.C. § 6502).



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not accurate or clear or did not fully address all issues raised by the taxpayers. As a result, taxpayers could experience increased burden if they have to contact the IRS for additional assistance.

Synopsis

Appeals has improved the handling of CDP cases when taxpayers exercised their rights to appeal the filing of a Notice of Federal Tax Lien or the issuance of a notice of intent to levy. In our prior review,⁵ we reported that hearing officers were still not consistently including impartiality statements in their case files. Our current review discovered that although this condition still exists, Appeals has implemented revised procedures that will address the condition for the next review period. Also, previously, the hearing officers were not always documenting whether the Collection function met all legal and administrative requirements, and some taxpayers had their Collection Statute Expiration Dates incorrectly extended. This audit found 1) that Appeals is documenting whether all legal and administrative requirements have been met, and 2) no instances of incorrect extensions of Collection Statute Expiration Dates.

However, we identified a small portion of CDP and Equivalent Hearing cases in which the hearing officers did not include the impartiality statements. In addition, we identified a few instances in which taxpayers were not provided with their right to a hearing because Appeals employees did not make sufficient attempts to contact the taxpayers before closing their cases. Also, some taxpayers might not have received an appropriate or complete response to the issues raised in their appeals because some case files did not include documentation required for us to evaluate the completeness of the response. Some taxpayers received correspondence that was not accurate or clear or did not fully address the issues raised by the taxpayers. As a result, we could not determine if taxpayer rights were potentially violated. Finally, we identified taxpayer accounts that did not contain required coding to identify those taxpayers who had exercised their appeal rights for a CDP hearing or an Equivalent Hearing.

Recommendations

We recommended that the Chief, Appeals, re-emphasize to Appeals employees the requirements for 1) contacting taxpayers (or their authorized representatives) and ensuring that these procedures are being followed before approving case closings and 2) including certain documentation in the Appeals files, such as the taxpayer's hearing request and correspondence to the taxpayer. The Chief, Appeals, should also 3) re-emphasize to employees that letters must be accurate and understandable to the taxpayer and that all taxpayer issues must be addressed before

⁵ *The Office of Appeals Has Improved Its Processing of Collection Due Process Cases* (Reference Number 2007-10-139, dated September 21, 2007).



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the taxpayer's case is closed, 4) revise Appeals policies and procedures to ensure that appropriate computer coding is entered for each type of hearing request for all tax periods, and 5) ensure that all taxpayer accounts we identified in our samples as being incorrectly coded are corrected.

Response

The IRS agreed with all of our recommendations. Appeals management will post an article to the Appeals web site to remind employees of the requirement for contacting taxpayers (or their authorized representatives) who have requested a CDP hearing. In addition, Appeals management will conduct meetings with their employees in the campus⁶ sites where CDP cases are closed and closed office files are prepared to review which documents are required to be retained in a closed office file. Appeals management will also post articles to the Appeals web site to remind all personnel that they must ensure the letters are accurate and presented in a manner that is understandable to the taxpayer, as well as remind employees of the requirement to address all taxpayer issues before closing the taxpayer's case. Further, Appeals management will revise procedures to ensure that CDP and Equivalent Hearing requests are properly posted to the CDP Tracking System when received in Appeals and will develop new procedures for verifying appropriate and correct front and back-end IDRS coding. Finally, Appeals management has corrected all inaccurate taxpayer IDRS accounts that we identified during this audit. Management's complete response to the draft report is included as Appendix VI.

Copies of this report are also being sent to the IRS managers affected by the report recommendations. Please contact me at (202) 622-6510 if you have questions or Nancy A. Nakamura, Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

⁶ The data processing arm of the IRS. The campuses process paper and electronic submissions, correct errors, and forward data to the Computing Centers for analysis and posting to taxpayer accounts.



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Abbreviations

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



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Background

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

In February 1996, the IRS established procedures that allowed taxpayers to appeal the filing of a lien and proposed or actual levies. Congress enacted legislation to protect taxpayers’ rights in the IRS Restructuring and Reform Act of 1998.³ Taxpayers now have the right to a hearing with the Office of Appeals (Appeals) under the Collection Due Process (CDP).⁴ 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 requests an Appeals hearing regarding the filing of a lien or the issuance of a notice of intent to levy within the required time period, the taxpayer is granted a CDP hearing. If the IRS does not receive the taxpayer’s request within the required period (generally 30 calendar days), the taxpayer might be granted an Equivalent Hearing (EH). Additionally, the taxpayer must request the EH within 1 year of the issuance of the CDP notice. Appeals changed its procedures to comply with these November 16, 2006, amended CDP regulations.

Taxpayers have the right to petition the United States Tax Court if they disagree with the Appeals decision from a CDP hearing. When Appeals makes a final decision on a taxpayer’s case, the hearing officer issues a Determination Letter on CDP cases⁵ or a Decision Letter on EH cases. During Fiscal Year 2007, Appeals closed 25,212 CDP cases and 9,436 EH cases.

The Treasury Inspector General for Tax Administration is required to determine annually whether the IRS has complied with legal guidelines and procedures for the filing of a lien or a notice of intent to levy and the rights of the taxpayer to appeal.⁶ This is our eighth annual audit of taxpayer appeal rights.

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

² 26 U.S.C. § 6331 (Supp. III 2000).

³ 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.).

⁴ Appendix V provides an explanation of the CDP and Equivalent Hearing procedures.

⁵ For some CDP cases, the hearing officer gives the taxpayer a Summary Notice of Determination.

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



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Our previous audit report on the Appeals process was issued in September 2007,⁷ and the related corrective actions were planned for implementation by January 2008. The scope period for this year's audit covered CDP and EH cases closed between October 1, 2006, and September 30, 2007, which was earlier than the planned implementation date for the corrective actions. Because the cases in this audit were closed prior to completion of corrective actions by the IRS, we did not make recommendations in this report for conditions repeated from the previous audit.

This review was performed by contacting Appeals personnel in Detroit, Michigan; San Francisco, California; and the National Headquarters in Washington, D.C., during the period October 2007 through June 2008. 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 *The Office of Appeals Has Improved Its Processing of Collection Due Process Cases* (Reference Number 2007-10-139, dated September 21, 2007).



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Results of Review

Appeals has continued to show improvements in the processing of CDP cases as a whole by generally classifying taxpayer requests properly, developing additional CDP procedures, and ensuring that the Collection Statute Expiration Dates⁸ for taxpayer accounts were correct. For example, previously, the hearing officers were not always documenting whether the Collection function met all legal and administrative requirements, and some taxpayers had their Collection Statute Expiration Dates incorrectly extended. This audit found that Appeals is documenting whether all legal and administrative requirements were met and no instances of incorrect extensions of Collection Statute Expiration Dates.

However, we identified a few instances in which taxpayers were not provided with their right to a hearing because Appeals employees did not make sufficient attempts to contact the taxpayers before closing their cases. In addition, some taxpayers might not have received an appropriate or complete response to the issues raised in their appeals because some case files did not include required documentation. Without the appropriate case documentation, we could not identify the issues raised by the taxpayer or whether Appeals adequately addressed all issues in the taxpayer's hearing. Further, hearing officers are still not always documenting their impartiality in the case files.

We also found correspondence to some taxpayers was not accurate or clear or did not fully address all issues raised by the taxpayers. As a result, taxpayers could experience increased burden if they have to contact the IRS for additional assistance.

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

⁸ The date when the statute of limitations for collection of an outstanding balance expires. The statutory period for collecting a tax is normally ten years from the date of assessment (26 U.S.C. § 6502).



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***Taxpayers Were Not Always Given the Opportunity for a Hearing, and
Certain Documentation Was Not Available to Determine Whether the
Office of Appeals Addressed All Taxpayer Issues***

Some taxpayers were not given an opportunity for a CDP hearing or an EH because Appeals employees did not make sufficient attempts to contact taxpayers or their authorized representatives as required. In addition, some case files were incomplete and did not contain necessary documentation. Therefore, we could not determine if all Appeals actions were appropriate and fully addressed all issues raised by the taxpayers.

***Some Appeals employees did not make the required number of attempts to
contact taxpayers or their authorized representatives***

Appeals policies and procedures require the Appeals employee to make at least two documented attempts to contact the taxpayer or his or her authorized representative when a hearing is requested. The intent of these procedures is to allow taxpayers or their representatives a reasonable opportunity to make contact with or provide information to Appeals.

1 of 70 statistically sampled CDP cases and 1 of 70 statistically
sampled EH cases, 1

We identified 1

1

We estimated that 721 of the 25,212 CDP and 135 of the 9,436 EH cases⁹ were closed without a hearing because they did not have at least 2 documented attempts to contact the taxpayer or his or her representative as required by Appeals procedures. Failure to follow the procedures for contacting the taxpayer after he or she has requested a CDP hearing could result in a denial of

⁹ Details about these and all other outcome measures presented in the Results of Review are included in Appendix IV.



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taxpayer rights because the taxpayer is not being provided with adequate access to a CDP hearing.

In our opinion, these cases were closed prematurely, and the taxpayers were not provided with adequate due process. This occurred because hearing officers did not follow the procedures for contacting taxpayers or their representatives. We could not determine why certain hearing officers closed taxpayer cases prematurely. However, it is possible that they were unaware of these procedures.

We could not always determine whether all taxpayer issues were adequately addressed

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

In 45 of our 70 sample CDP cases, Appeals issued a Determination Letter at the conclusion of the CDP hearing. In the sample of 70 EH cases, Appeals issued a Decision Letter in 50 cases.¹⁰ We determined that 1 [REDACTED] of the 45 CDP cases were [REDACTED] and 1 [REDACTED] of the 50 EH cases [REDACTED]. During our review, we could not determine why important documentation such as letters sent to taxpayers was missing from the case files.

At a minimum, these Letters to taxpayers must include:

1. Verification that the requirements of applicable laws and administrative procedures have been met.
2. Issues raised by the taxpayer to be considered in the appeal.
3. Determination that the proposed collection action balances the need for efficient collection of taxes with the legitimate concern of the taxpayer that any collection action be no more intrusive than necessary.

In addition, 1 [REDACTED] of the 70 CDP cases and 4 (6 percent) of the 70 EH cases were [REDACTED]

Because some closing letters to taxpayers were missing, we could not fully evaluate whether hearing officers addressed all of the taxpayers' issues completely, clearly, and accurately and explained the basis for their decision. In addition, because the hearing requests were sometimes missing, we could not determine if the taxpayers were granted the proper type of hearing

¹⁰ Appeals did not issue closing letters in the remaining cases because taxpayers withdrew their requests for a hearing.



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(CDP or EH) as required. As a result, we could not determine if taxpayer rights were potentially violated.

Based on our results, we estimated that the following numbers of taxpayers in our sample period might not 1) have received adequate responses from Appeals, or 2) had their hearing requests properly classified, resulting in potential violations of taxpayer rights:

- 720 taxpayers whose case files did not contain the Determination Letters.
- 135 taxpayers whose case files did not contain the Decision Letters.
- 721 taxpayers whose CDP hearing requests were missing.
- 539 taxpayers whose EH requests were missing.

Recommendations

The Chief, Appeals, should re-emphasize to Appeals employees the requirements for:

Recommendation 1: Contacting taxpayers (or their authorized representatives) who have requested a CDP hearing. In addition, Appeals management should re-emphasize that established procedures for contacting taxpayers are being followed before approving cases for closure, particularly when there have been no contacts with the taxpayers.

Management's Response: IRS management agreed with our recommendation and will post an article to the Appeals web site to remind Appeals employees of the requirement for contacting taxpayers (or their authorized representatives) who have requested a CDP hearing. The article will emphasize the procedures in the Internal Revenue Manual¹¹ when there has been no contact with the taxpayer, and management's role in reviewing cases for closure.

Recommendation 2: Including certain documentation in the Appeals files, such as the taxpayer's hearing request and correspondence to the taxpayer.

Management's Response: IRS management agreed with our recommendation and will conduct meetings with their employees in the campus¹² sites where CDP cases are closed and closed office files are prepared. The meeting will include a review of which documents are required to be retained in the closed office file.

¹¹ The Internal Revenue Manual is the single official source for IRS policies, directives, guidelines, procedures, and delegations of authority in the IRS.

¹² The data processing arm of the IRS. The campuses process paper and electronic submissions, correct errors, and forward data to the Computing Centers for analysis and posting to taxpayer accounts.



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Hearing Officers Did Not Document Their Impartiality in a Few Cases

Both a CDP hearing and an EH must be conducted by a hearing officer who has had no prior involvement with respect to the unpaid tax. However, the taxpayer may waive this requirement. If a hearing officer does not document the case file with a statement of his or her impartiality, there is a risk of prior involvement in the taxpayer's case and lack of independence. To comply with this requirement, closing letters to taxpayers and waivers¹³ must include an impartiality statement.

Lack of this documentation in case files does not mean that hearing officers were not impartial or that taxpayers received unfair hearings. However, we determined that case files for 3 (4 percent) of the 70 CDP cases and 1 of the 70 EH cases

[REDACTED] We estimated that 1,081 of the 25,212 CDP cases and 270 of the 9,436 EH cases closed in Fiscal Year 2007 did not contain the impartiality statement. As a result, we could not determine if taxpayer rights were potentially violated in these cases.

We have brought these issues to the attention of Appeals management in prior reports. Appeals management agreed to revise written guidance and provide training to hearing officers for documenting impartiality. We confirmed that Appeals had revised its Internal Revenue Manual in December 2006, requiring that hearing officers include an impartiality statement in the case activity record during the initial analysis of the case. This revision should preclude instances of the impartiality statement not being included, particularly when the hearing request is withdrawn and a Determination/Decision Letter is thus not sent to the taxpayer. Because most of the sample cases in this audit were initiated prior to December 2006, we are making no further recommendations regarding impartiality.

Letters to Taxpayers Were Not Always Accurate or Clear or Did Not Fully Address All Issues Raised by Taxpayers

Appeals has developed detailed guidance describing the information that should be included in Letters sent to taxpayers. Specifically, Appeals procedures state that the Determination and Decision Letters should contain a clear and detailed explanation of the basis for the hearing officer's decision.

Letters issued to some taxpayers were inaccurate or unclear or did not fully address all issues or tax periods raised in the taxpayers' appeals. As a result, we could not determine if taxpayer rights were potentially violated. For example, we identified [REDACTED]

¹³ CDP Determination Letters, CDP Summary Notices of Determination (waivers), and EH Decision Letters all must include an impartiality statement.



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Specifically, we found problems with correspondence to taxpayers in 4 (9 percent) of the 45 CDP sample cases for which Appeals issued Determination Letters and 5 (10 percent) of the 50 EH cases for which Appeals issued Decision Letters.¹⁴ Table 1 shows the types of errors we identified in correspondence to taxpayers.

Table 1: Problems Identified In Correspondence to Taxpayers

Inaccurate, Unclear, or Incomplete Letters	Number of Cases
Letter was inaccurate	1
Letter was unclear or did not address all issues	
Letter did not address all tax periods	
Total	9

Source: Our review of a sample of CDP and EH cases closed in Fiscal Year 2007.

We estimated that 1,441 Determination Letters and 674 Decision Letters 1) did not adequately address all issues raised by the taxpayer, and/or 2) included misleading or unclear information.

We believe that hearing officers should not only address all issues but also clearly explain their decisions so that taxpayers do not have to recontact Appeals or another IRS function for clarification. In some cases, taxpayers may pursue further appeals or petition the United States Tax Court if they believe that Appeals did not adequately explain or address their issues.

Appeals management did not provide a cause for all of the errors we identified in the correspondence sent to taxpayers. However, we believe that some hearing officers might not have conducted adequate research on the taxpayers' accounts to identify the pertinent issues before they prepared the Determination or Decision Letters.

Recommendation

Recommendation 3: The Chief, Appeals, should re-emphasize the following requirements to Appeals personnel: 1) letters must be accurate and presented in a manner that is understandable to the taxpayer; and 2) all taxpayer issues must be addressed before the taxpayer's case is closed.

Management's Response: IRS management agreed with our recommendation and will post an article to the Appeals web site to remind all personnel that when they prepare and/or approve a Decision Letter or Notice of Determination, they must ensure the letters

¹⁴ We selected 2 random samples of 70 CDP and 70 EH cases. However, Letters were issued in only 45 CDP and 50 EH cases.



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are accurate and presented in a manner that is understandable to the taxpayer. In addition, an article will be posted to remind all employees of the requirement to address all taxpayer issues before closing the taxpayer's case.

Some Office of Appeals Cases Did Not Include the Correct Computer Coding on Taxpayer Accounts

The IRS uses specific coding on its computer system (the Integrated Data Retrieval System – IDRS)¹⁵ to identify those taxpayers who exercised their appeal rights for CDP hearings and EHs. Because IRS employees use the IDRS as the primary tool for researching a taxpayer's account, the computer transcript must reflect all actions that occurred, including taxpayer appeals.

If the receipt of an Appeals hearing request and closure of the hearing are not recorded on the IDRS, inappropriate collection activity (or unnecessary suspension of collection activity) could occur. Further, the IRS might provide inaccurate information or advice to a taxpayer such as suggesting that a CDP hearing or an EH could still be held when the taxpayer had already received a hearing.¹⁶ For example, taxpayers might call the IRS Customer Service function or the Taxpayer Advocate Service¹⁷ to obtain information on the status of their accounts or seek assistance related to ongoing IRS activities. If the coding for Appeals hearings is inaccurate, taxpayers might experience increased burden by obtaining incorrect advice about their issues, as well as being denied requests for additional CDP hearings because they have already received a prior hearing and are not entitled to additional hearings.

When a taxpayer's hearing request is received by the IRS, it is first routed through Compliance personnel in the Wage and Investment Division or the Small Business/Self-Employed Division. A Compliance function employee initially enters the taxpayer's appeal in a tracking system¹⁸ to document that a hearing request was received.

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

¹⁵ IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.

¹⁶ A taxpayer is entitled to only one CDP hearing regarding the tax period with the unpaid tax.

¹⁷ The Taxpayer Advocate Service is an independent organization within the IRS that helps taxpayers resolve problems with the IRS and recommends changes that will prevent the problems.

¹⁸ This tracking system is a database within Appeals that is used to monitor the progress and location of hearing requests.



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Recently, Appeals implemented additional procedures to ensure that the appropriate coding is entered on the tracking system by the Compliance functions. Specifically, Appeals personnel are responsible for ensuring the accuracy of the data entered in the tracking system when the case arrives in and leaves Appeals. If a case comes to Appeals without having been entered on the tracking system, the Appeals employee is required to return it to the originator to input the appropriate code.

For 1 [redacted] of the 70 CDP cases and 11 (16 percent) of the 70 EH cases in our samples, there 1 [redacted]

[redacted] We estimated that 361 CDP cases and 1,483 EH cases did not contain the required IDRS coding to identify the receipt (hearing request) and/or closing actions (letters) on the taxpayers' accounts. Table 2 shows the types of errors we identified.

Table 2: Coding Errors Identified on Taxpayer Accounts

Information Not Recorded on the IDRS	Number of Cases
Issuance of Determination/Decision Letter	3
Receipt of Hearing Request and Issuance of Determination/Decision Letter	9
Total	12

Source: Our review of a sample of CDP and EH cases closed in Fiscal Year 2007.

In January 2008, Appeals revised its Internal Revenue Manual to require Appeals personnel to verify, upon receipt of a hearing request, that the case has been entered on the tracking system. Appeals advised us that the recent enhancements to the tracking system should help alleviate the problems we identified. However, we do not believe that these changes will fully address situations in which taxpayers receive both a CDP hearing and an EH for multiple tax periods (e.g., a CDP hearing for one period and an EH for another tax period). Further, we do not believe that the new procedures emphasize the need to verify that all applicable tax periods are entered or that the appropriate closing code is entered when the taxpayer's case is finalized.

Recommendations

The Chief, Appeals, should:

Recommendation 4: Revise Appeals policies and procedures to ensure that appropriate IDRS coding is entered for each type of hearing request for all tax periods involved. The guidance should emphasize both front-end and back-end IDRS coding. Appeals employees should be reminded to verify that the correct coding is reflected on the taxpayer's account.



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Management's Response: IRS Management agreed with this recommendation and will revise the procedures to ensure that CDP and EH requests are properly posted to the CDP Tracking System when received in Appeals. New procedures will include verifying appropriate and correct front and back-end IDRS coding.

Recommendation 5: Correct all taxpayer accounts we identified in our samples to ensure that the proper codes are reflected on the IDRS.

Management's Response: IRS management agreed with our recommendation and reviewed and corrected all of the inaccurate taxpayer accounts.



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Appendix I

Detailed Objective, Scope, and Methodology

The objective of this review was to determine whether the IRS complied with the provisions of 26 U.S.C. §§ 6320 and 6330 when taxpayers exercised their rights to appeal the filing of a Notice of Federal Tax Lien (lien) or the issuance of a notice of intent to levy.¹ To accomplish this objective, we:

- I. Determined whether any new procedures or processes had been developed since completion of the prior Treasury Inspector General for Tax Administration statutory review.² This involved requesting documentation from Office of Appeals (Appeals) personnel supporting the implementation of corrective actions to our prior audit reports and other procedural or process changes.
- II. Determined whether Appeals CDP³ and EH office and administrative case files could be secured and contained minimum documentation required for a hearing.
 - A. Obtained a computer extract of CDP and EH cases closed between October 1, 2006, and September 30, 2007, from the Appeals Centralized Database System (ACDS)⁴ file maintained at the Treasury Inspector General for Tax Administration Data Center Warehouse.⁵ We validated the computer extract using information from the Data Center Warehouse, reviewed the appropriateness of data within fields requested, and compared population totals to information obtained from Appeals personnel.
 - B. Selected samples of 70 CDP and 70 EH case files.
 1. Selected statistical attribute samples of 70 CDP cases (from a population of 25,212 CDP cases) and 70 EH cases (from a population of 9,436 EH cases) based on a confidence level of 90 percent, a precision rate of ± 6 percent, and an expected error rate of 10 percent. We selected a statistical sample because we wanted to project results to the entire universe.
 2. Requested and determined whether Appeals could provide the sampled office files and whether we could secure the sampled administrative files.

¹ 26 U.S.C. §§ 6320 and 6330 (Supp. III 2000).

² *The Office of Appeals Has Improved Its Processing of Collection Due Process Cases* (Reference Number 2007-10-139, dated September 21, 2007).

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

⁴ The ACDS is a computerized case control system used to control and track cases throughout the appeals process.

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



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



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5. The hearing officer made a determination after considering whether any proposed collection action balances efficient tax collection with the taxpayer's legitimate concern that any collection action be no more intrusive than necessary.
[26 U.S.C. § 6330(c)(3)]
 - B. Discussed exception cases with Appeals personnel to confirm and determine causes. After confirmation, we estimated the number of potential exceptions within the population.
- V. Determined whether the collection statutes were properly suspended.
 - A. Using the samples selected in Step II.B.1., determined whether the collection statutes had been properly suspended for CDP cases and not suspended for EH cases.



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Appendix II

Major Contributors to This Report

Nancy A. Nakamura, Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Program)
Jeffrey M. Jones, Director
Janice M. Pryor, Audit Manager
Yasmin B. Ryan, Lead Auditor
Mary F. Herberger, Senior Auditor
Margaret A. Anketell, Senior Auditor



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Appendix III

Report Distribution List

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



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Appendix IV

Outcome Measures

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

Type and Value of Outcome Measure:

- Taxpayer Rights – Potential; closed CDP¹ case files for 2,523 taxpayers did not meet 1 or more requirements (see pages 4 and 7).

Methodology Used to Measure the Reported Benefit:

Using a computer extract from the ACDS,² we identified a population of 25,212 CDP cases closed in Fiscal Year 2007. We selected a statistical attribute sample of 70 CDP cases and found that 7 (10 percent) case files did not meet requirements in 1 or more of the following ways: taxpayer or his or her authorized representative was not given the opportunity for a hearing, taxpayer's written hearing request was missing, and/or an impartiality statement by the hearing officer was not documented. Using a 90 percent confidence level and a precision rate of ± 10.52 percent, we estimated that the rights of 2,523 taxpayers were potentially affected.

Type and Value of Outcome Measure:

- Taxpayer Rights – Potential; closed EH case files for 944 taxpayers did not meet 1 or more requirements (see pages 4 and 7).

Methodology Used to Measure the Reported Benefit:

Using a computer extract from the ACDS, we identified a population of 9,436 EH cases closed in Fiscal Year 2007. We selected a statistical attribute sample of 70 EH cases and found that 7 (10 percent) case files did not meet requirements in 1 or more of the following ways: taxpayer or his or her authorized representative was not given the opportunity for a hearing, taxpayer's written hearing request was missing, and/or an impartiality statement by the hearing officer was not documented. Using a 90 percent confidence level and a precision rate of ± 10.14 percent, we estimated that the rights of 944 taxpayers were potentially affected.

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

² The ACDS is a computerized case control system used to control and track cases throughout the appeals process.



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Type and Value of Outcome Measure:

- Taxpayer Rights – Potential; closed CDP case files for 720 taxpayers were missing the Determination Letters (see page 4).

Methodology Used to Measure the Reported Benefit:

Using a computer extract from the ACDS, we identified a population of 25,212 CDP cases closed in Fiscal Year 2007. We selected a statistical attribute sample of 70 CDP cases and found that Appeals had issued Determination Letters in 45 cases. The remaining 25 taxpayers in the sample had withdrawn their hearing requests. [REDACTED]
[REDACTED] We are 90 percent confident that the error rate falls between [REDACTED] using the Clopper-Pearson exact Binomial method.³ Based on this method, we estimated that the rights of [REDACTED] taxpayers were potentially affected.

Type and Value of Outcome Measure:

- Taxpayer Rights – Potential; closed EH case files for 135 taxpayers were missing the Decision Letters (see page 4).

Methodology Used to Measure the Reported Benefit:

Using a computer extract from the ACDS, we identified a population of 9,436 EH cases closed in Fiscal Year 2007. We selected a statistical attribute sample of 70 EH cases and found that Appeals had issued Decision Letters in 50 cases. The remaining 20 taxpayers in the sample had withdrawn their hearing requests. [REDACTED]
We are 90 percent confident that the error rate falls between [REDACTED] using the Clopper-Pearson exact Binomial method. Based on this method, we estimated that the rights of [REDACTED] taxpayers were potentially affected.

³ The Normal approximation method was not used because the number of errors relative to the sample size was too small to conclude that the sampling distribution of error rates was normally distributed. The Clopper-Pearson method did not produce confidence interval limits that are equidistant from the observed error rates because the sampling distribution of error rates for the small sample size is skewed rather than symmetric.



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Type and Value of Outcome Measure:

- Taxpayer Rights – Potential; closed CDP case files for 1,441 taxpayers did not contain Determination Letters that were accurate or clear or that fully addressed all issues raised in the taxpayers' appeals (see page 7).

Methodology Used to Measure the Reported Benefit:

Using a computer extract from the ACDS, we identified a population of 25,212 CDP cases closed in Fiscal Year 2007. We selected a statistical attribute sample of 70 CDP cases and found that Appeals had issued Determination Letters in 45 cases. The remaining 25 taxpayers in the sample had withdrawn their hearing requests. Four of the 45 Determination Letters sent to the taxpayers were not accurate or clear or did not fully address all issues raised in the taxpayers' appeals. We are 90 percent confident that the error rate falls between 3.1 percent and 19.20 percent using the Clopper-Pearson exact Binomial Method. Based on this method, we estimated that the rights of 1,441 ($4 \times 25,212 / 70$) taxpayers were potentially affected.

Type and Value of Outcome Measure:

- Taxpayer Rights – Potential; closed EH case files for 674 taxpayers did not contain Decision Letters to taxpayers that were accurate or clear or that fully addressed all issues raised in the taxpayer's appeal (see page 7).

Methodology Used to Measure the Reported Benefit:

Using a computer extract from the ACDS, we identified a population of 9,436 EH cases closed in Fiscal Year 2007. We selected a statistical attribute sample of 70 EH cases and found that Appeals had issued Decision Letters in 50 cases. The remaining 20 taxpayers in the sample had withdrawn their hearing requests. Five of the 50 Decision Letters sent to taxpayers were not accurate or clear or did not fully address all issues raised in the taxpayers' appeals. We are 90 percent confident that the error rate falls between 4.02 percent and 19.88 percent using the Clopper-Pearson exact Binomial method. Based on this method, we estimated that the rights of 674 ($5 \times 9,436 / 70$) taxpayers were potentially affected.

Type and Value of Outcome Measure:

- Reliability of Data – Potential; taxpayer accounts for 361 closed CDP case files did not contain the correct computer coding (see page 9).

Methodology Used to Measure the Reported Benefit:

Using a computer extract from the ACDS, we identified a population of 25,212 CDP cases closed in Fiscal Year 2007. We selected a statistical attribute sample of 70 CDP cases and found that the taxpayer account for [REDACTED]



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Using a 90 percent confidence level and a precision rate of ± 2.33 percent, we estimated that taxpayer accounts for 361 CDP case files did not contain the correct computer coding.

Type and Value of Outcome Measure:

- Reliability of Data – Potential; taxpayer accounts for 1,483 closed EH case files did not contain the correct computer coding (see page 9).

Methodology Used to Measure the Reported Benefit:

Using a computer extract from the ACDS, we identified a population of 9,436 EH cases closed in Fiscal Year 2007. We selected a statistical attribute sample of 70 EH cases and found that the taxpayer accounts for 11 (16 percent) case files did not contain the correct computer coding. Using a 90 percent confidence level and a precision rate of ± 7.13 percent, we estimated that taxpayer accounts for 1,483 EH case files did not contain the correct computer coding.



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Appendix V

Collection Due Process Procedures

The IRS is required to notify taxpayers in writing that a Notice of Federal Tax Lien (lien) has been filed or when it intends to issue a notice of intent to levy.¹ A taxpayer is allowed to appeal the filing of the lien or proposed levy action through the CDP by filing a hearing request. This hearing request must be received within 30 calendar days plus 5 business days of the filing of the lien or within 30 calendar days of the date of the notice of intent to levy. If a taxpayer's hearing request is submitted on time, the IRS will suspend all collection efforts and the Office of Appeals (Appeals) will give the taxpayer a CDP hearing.

If the taxpayer disagrees with the Appeals decision, he or she may petition the courts. If the IRS does not receive the taxpayer's request within the required period (generally 30 calendar days), the taxpayer may be granted an EH. Additionally, the taxpayer must request the EH within 1 year of the issuance of the CDP notice. However, in an EH, the IRS is not required to suspend collection action, and the taxpayer does not have the right to a judicial review.

Taxpayers are entitled to one hearing per tax period for which a lien or notice of intent to levy has been issued. The hearing is conducted by an Appeals officer or settlement officer (hearing officer) who has had no prior involvement with the unpaid tax. During the hearing, the hearing officer must verify whether the requirements of all applicable laws or administrative procedures related to the lien or notice of intent to levy have been met. The hearing officer must also 1) address any issues the taxpayer might raise relevant to the unpaid tax, the filing of the lien, and/or the proposed levy, such as whether the taxpayer is an innocent spouse, 2) determine if collection actions were appropriate, and 3) decide whether other collection alternatives would facilitate the payment of the tax. The hearing officer must determine whether any proposed collection action balances the need for efficient collection of taxes with the taxpayer's legitimate concerns. The taxpayer may not raise an issue that was considered at a prior administrative or judicial hearing if the taxpayer participated meaningfully in the prior proceeding.

At the conclusion of a hearing, Appeals gives the taxpayer a letter that includes the hearing officer's findings, agreements reached with the taxpayer, any relief provided to the taxpayer, and any actions the taxpayer and/or the IRS are required to take. For a CDP case, the taxpayer receives either a Determination Letter—which provides an explanation of the right to a judicial review—or a Summary Notice of Determination, which is used when the taxpayer agrees with Appeals, waives the right to a judicial review, and waives the suspension of collection action. For an EH case, the taxpayer receives a Decision Letter.

¹ 26 U.S.C. Sections 6321 and 6331 (Supp. III 2000).



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At the completion of the case, the hearing officer's manager reviews the CDP or EH case to evaluate whether the hearing officer followed all requirements and procedures.

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



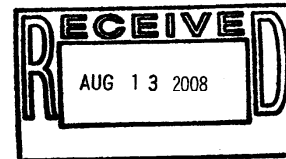
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Appendix VI

Management's Response to the Draft Report



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



AUG 12 2008

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

From: Sarah Hall Ingram
Chief, Appeals *Sarah Hall Ingram*

Subject: Draft Audit Report - The Office of Appeals Continues to Show
Improvement in Processing Collection Due Process Cases
(Audit 2008-10-003)

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

We agree that we need to reemphasize with our employees the requirements for contacting taxpayers or their authorized representative, particularly when there has been no contact with the taxpayer. We also agree that we must maintain a complete closed office file and will remind our employees which documents need to be retained in that file. We will reemphasize with our employees that letters must be accurate and presented in a manner that is understandable to the taxpayer and that all of the taxpayer's issues must be addressed before the case is closed.

Finally, Appeals will revise its policies and procedures to ensure appropriate computer coding is entered and incorrect coding is timely corrected on IRS systems such as the Integrated Data Retrieval System (IDRS) and the Collection Due Process Tracking System (CDPTS), both front-end and back-end, for all tax and periods involved in the hearing. Appeals is committed to working with the Operating Divisions in its efforts. Attached are our corrective actions in response to your recommendations.

If you have any questions, please have a member of your staff contact Diane Ryan, Director, Technical Services, at (314) 612-4640.

Attachment



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Attachment

RECOMMENDATION 1: The Chief, Appeals, should re-emphasize to Appeals employees the requirements for contacting taxpayers (or their authorized representatives) who have requested a CDP hearing. In addition, Appeals management should re-emphasize established procedures for contacting taxpayers are being followed before approving cases for closure, particularly when there have been no contacts with the taxpayer.

PROPOSED CORRECTION ACTION: The Director, Tax Policy and Procedure (Collection and Processing), will post an article to the Appeals website to remind Appeals employees of the requirement for contacting taxpayers (or their authorized representatives) who have requested a CDP hearing. The article will emphasize the procedures in IRM 8.22.2.2.6.1 when there has been no contact with the taxpayer, and management's role in reviewing cases for closure.

IMPLEMENTATION DATE: December 15, 2008

RESPONSIBLE OFFICIAL: Director, Technical Services

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

RECOMMENDATION 2: The Chief, Appeals, should re-emphasize to Appeals employees the requirements for including certain documentation in the Appeals files, such as the taxpayer's hearing request and correspondence to the taxpayer.

PROPOSED CORRECTION ACTION: Appeals Processing Services will conduct meetings with their employees in the campus sites where CDP cases are closed and closed office files are prepared. The meeting will include a review of which documents are required to be retained in a closed office file.

IMPLEMENTATION DATE: December 15, 2008

RESPONSIBLE OFFICIAL: Director, Technical Services

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



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RECOMMENDATION 3: The Chief, Appeals, should re-emphasize the following requirements to Appeals personnel: 1) letters must be accurate and presented in a manner that is understandable to the taxpayer and 2) all taxpayer issues be addressed before the taxpayer's case is closed.

PROPOSED CORRECTION ACTION 3a: The Director, Tax Policy and Procedure (Collection and Processing), will post an article to the Appeals website to remind all personnel that when they prepare and/or approve a Decision Letter or Notice of Determination they must ensure the letters are accurate and presented in a manner that is understandable to the taxpayer.

IMPLEMENTATION DATE: December 15, 2008

RESPONSIBLE OFFICIAL: Director, Technical Services

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

PROPOSED CORRECTION ACTION 3b: The Director, Tax Policy and Procedure (Collection and Processing), will post an article to the Appeals website to remind all employees of the requirement to address all taxpayer issues before closing the taxpayer's case. The article will emphasize the procedures in IRM 8.22.2.2.16.5 that discuss the documentation requirement for issues raised by the taxpayer.

IMPLEMENTATION DATE: December 15, 2008

RESPONSIBLE OFFICIAL: Director, Technical Services

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

RECOMMENDATION 4: The Chief, Appeals, should revise Appeals policies and procedures to ensure that appropriate IDRS coding is entered for each type of hearing request for all tax periods involved. The guidance should emphasize both front-end and back-end IDRS coding. Appeals employees should be reminded to verify that the correct coding is reflected on the taxpayer's account.

PROPOSED CORRECTION ACTION: The Director, Tax Policy and Procedure (Collection and Processing), will revise the procedures in IRM 8.22 to ensure that CDP and equivalent hearing requests are properly posted to the CDP Tracking System (CDPTS) when received in Appeals. New procedures will include verifying appropriate and correct front and back-end IDRS coding. Specifically:



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- Appeals Processing Services, upon receiving a CDP or equivalent hearing request, will print a "screen shot" of the case listing page on CDPTS to confirm that Collection has accurately added the case. Inaccurate or no postings will be promptly returned to Collection for necessary action. This will be added to the next revision of IRM 8.22.1.
- Technical employees will be required to review and compare the CDPTS "screen shot" to the ACDS case summary card. Corrections will be submitted immediately to Appeals Processing Services and the Settlement Officer will monitor that corrections are made timely. This will be added to the next revision of IRM 8.22.2.
- Appeals Processing Services, after updating the case to Stage 13, will print CDPTS "screen shot" and include it in the closed office file. This will be added to the next revision of IRM 8.22.3.

IMPLEMENTATION DATE: May 15, 2009

RESPONSIBLE OFFICIAL: Director, Technical Services

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

RECOMMENDATION 5: The Chief, Appeals, should correct all taxpayer accounts we identified in our samples to ensure the proper codes are reflected on the IDRS.

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

IMPLEMENTATION DATE: Implemented

RESPONSIBLE OFFICIAL: Director, Technical Services