



*The Office of Appeals Should Continue to
Strengthen and Reinforce Procedures for
Collection Due Process Cases*

September 20, 2006

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FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

September 20, 2006

MEMORANDUM FOR CHIEF, APPEALS

FROM:

Michael R. Phillips
Michael R. Phillips
Deputy Inspector General for Audit

SUBJECT:

Final Audit Report – The Office of Appeals Should Continue to Strengthen and Reinforce Procedures for Collection Due Process Cases (Audit # 200510037)

This report presents the results of our annual statutory review of the Office of Appeals (Appeals) Collection Due Process (CDP). The overall objective of this review was to determine whether the Internal Revenue Service (IRS) complied with the provisions of 26 United States Code (U.S.C.) Sections (§§) 6320 and 6330¹ when taxpayers exercised their rights to appeal the filing of a lien or a notice of intent to levy. The Treasury Inspector General for Tax Administration is required to determine annually whether the IRS complied with the legal guidelines and procedures for the filing of a notice of lien or a notice of intent to levy and the right of the taxpayer to appeal.²

Impact on the Taxpayer

The CDP was designed to allow taxpayers a process for exercising their right to appeal when the IRS files a lien or a notice of intent to levy against them. However, procedures for the CDP have been inconsistent and incomplete, resulting in incorrectly categorized cases, failure to suspend collection action, and incomplete documentation. Consequently, taxpayers may not receive their full rights during an appeal hearing.

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

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



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Synopsis

Overall, we could not determine whether the IRS complied with legal guidelines and required procedures to protect taxpayer rights because many of the case files or case documentation could not be located. However, we did identify instances in which incorrect procedures were followed, resulting in potential taxpayer burden. Specifically, we determined requests for CDP hearings or Equivalent Hearings (EH) were misclassified and some taxpayers received the wrong type of hearing, there were errors in suspension of collection activity during a hearing, and some cases did not have documentation of hearing officers' impartiality and support for decision making.

A significant portion of the CDP and EH closed case files we requested could not be located or were missing key documents. Thus, we could not determine whether all Appeals actions were appropriate. In certain instances, a missing or incomplete case file could affect the taxpayer in the future because if the taxpayer has a change in circumstances that affects the Appeals determination, or if the Collection function does not properly carry out an Appeals determination, the case can be reopened in Appeals. In that situation, if the original case file could not be located, comparable documentation would again have to be gathered, potentially resulting in additional taxpayer burden. Similar results were included in our previous report,³ but the Appeals' planned corrective actions were not scheduled to be completed until December 2005, which was subsequent to the period we reviewed in this audit. Therefore, we are making no recommendations in this report regarding case files that could not be located or were missing key documents.

In addition, we identified a few situations in which taxpayers were not granted the appropriate type of hearing (CDP versus EH). During a CDP hearing, collection action is suspended and the taxpayer has the right to judicial review. For an EH hearing, there is no suspension of collection action or right to judicial review. The process used by Appeals to classify a hearing request as a CDP or EH was not always consistent with information provided to the taxpayer in the levy notification letter. Appeals would sometimes use one set of dates to determine when a hearing request would be considered timely, while the taxpayer was provided a different set of dates. The dates provided to the taxpayer indicated the last day for requesting a hearing was a few days after that established by the dates Appeals used. In another instance, [REDACTED]

[REDACTED]

[REDACTED] In addition, some examples included in an Appeals guide for determining the timeliness of a hearing request were not consistent with other written procedures. These various situations resulted in some cases being misclassified as CDP when the taxpayers were only qualified for an EH or vice versa. Misclassification causes inequitable application of taxpayer rights, including

³ *The Office of Appeals Should Strengthen and Reinforce Procedures for Collection Due Process Cases* (Reference Number 2005-10-138, dated September 2005).



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the failure to suspend collection action and failure to provide the right to judicial review if a CDP hearing is not appropriately granted.

Furthermore, we identified a number of procedural violations. In some instances, hearing officers⁴ did not comply with the procedural and legal requirement to document and support whether they had any prior involvement with the unpaid tax. Additionally, Appeals CDP case files did not always contain documentation that Appeals verified the timeliness of the hearing request or the date on which suspension of collection activity should begin. Specific computer codes are used to indicate the suspension of collection activity and to recalculate the expiration date for the collection statute. When these codes are missing, collection activity may continue inappropriately, and the expiration date for the collection statute will not be recalculated. Also, although the Determination and Decision Letters met minimum requirements, several case files did not contain support for some of the statements in the Letters.

Recommendations

We recommended the Chief, Appeals, ensure the process for determining the timeliness of CDP requests is consistent with the information provided to taxpayers in the levy notification letter and the examples in the Appeals guide are consistent and clear. Hearing officers should be reminded of these procedures and managers should enforce these procedures when reviewing cases. We also recommended the Chief, Appeals, emphasize the importance of case files containing evidence to support the impartiality statement of the assigned hearing officer; ensure hearing officers verify suspension of collection activity at the beginning of CDP hearings, provide support for this action in case files, and ensure Appeals has a process to immediately correct taxpayers' accounts when hearing officers identify missing computer coding for suspension of collection activity; and develop a process to ensure all actions taken by hearing officers to support decisions and verifications made throughout the hearing process are clearly documented.

Response

IRS management agreed with all of our recommendations. Appeals will revise its written guidance to include a consistent process to determine timeliness, provide additional examples and clearer documentation requirements, and include the requirement to document all actions taken to support decisions and verifications contained in letters to taxpayers. In addition, Appeals plans to revise the CDP template to include a prompt to ensure collection activity is properly suspended on taxpayers' accounts. Appeals also agreed to implement a procedure to immediately correct taxpayer accounts when hearing officers identify missing computer coding

⁴ Hearing officers are either Appeals officers or settlement officers.



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for suspension of collection activity. Furthermore, hearing officers will receive training for these revisions. Management's complete response to the draft report is included as Appendix V.

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, Acting Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.



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Abbreviations

ACDS	Appeals Centralized Database System
Appeals	Office of Appeals
CDP	Collection Due Process
C.F.R.	Code of Federal Regulations
EH	Equivalent Hearing
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, commonly referred to as a lien, to the taxpayer's assets.¹ The IRS also has the authority to work directly with financial institutions and other parties to obtain funds owed by a taxpayer; this is commonly referred to as a levy.²

In February 1996, the IRS established procedures that allowed taxpayers to appeal the filing of liens and proposed or actual levies. However, this protection was not mandated by law. If the IRS did not follow its procedures, there was no remedy available to the taxpayer. Based on concerns that taxpayers were not always provided adequate notice and that appeal rights were needed for liens and levies, the IRS Restructuring and Reform Act of 1998 codified this protection into law.³

The IRS is required to notify taxpayers in writing that a lien has been filed or that it intends to levy.⁴ A taxpayer is allowed to appeal the lien or levy action through the Collection Due Process (CDP) by filing a hearing request.⁵ 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 levy notice.⁶ If a taxpayer's hearing request is submitted on time, the IRS will suspend all tax collection efforts and the Office of Appeals (Appeals) will provide the taxpayer a CDP hearing, after which the taxpayer has the right to a judicial review if the taxpayer does not agree with the Appeals decision. If a taxpayer's hearing request is not submitted timely, Appeals will provide the taxpayer an Equivalent Hearing (EH) and consider the same issues as in a CDP hearing; however, collection action is not required to be suspended and the taxpayer does not have the right to a judicial review.

Taxpayers are entitled to one hearing per tax period⁷ for which a notice of lien or intent to levy has been issued. The hearing should be conducted by an Appeals officer or settlement officer

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 26 U.S.C. §§ 6320(a) and 6330(a) (Supp. III 2000) and Code of Federal Regulations (C.F.R.) §§ 301.6320-1 and 301.6330-1 (2002).

⁵ Taxpayers can use Request for a Collection Due Process Hearing (Form 12153) or other similar written communication to request a CDP hearing.

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

⁷ The tax period is a measure of time for which a tax return is required to be filed.



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(hearing officer) who had no prior involvement with the unpaid tax.⁸ During the hearing, the hearing officer must verify whether the requirements of all applicable laws or administrative procedures related to the lien or levy were met. The hearing officer must also address any issues the taxpayer may raise relevant to the unpaid tax or the proposed lien or levy, such as whether the taxpayer is an innocent spouse; determine if collection actions were appropriate; and decide if other collection alternatives would facilitate the payment of the tax. The hearing officer must determine whether the proposed collection action balances efficient tax collection with the taxpayer's legitimate concerns. The taxpayer may not raise an issue that was considered at a prior administrative or judicial hearing if the taxpayer participated meaningfully in the prior proceeding.

At the conclusion of a hearing, Appeals provides the taxpayer a letter that presents 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 judicial review;⁹ or a Summary Notice of Determination, which is used when the taxpayer agrees with Appeals, waives the right to judicial review, and waives the suspension of levy action.¹⁰ For an EH case, the taxpayer receives a Decision Letter.¹¹

The CDP or EH case is reviewed by the hearing officer's manager at the completion of the case, to evaluate whether the hearing officer followed all requirements and procedures. In addition, the Appeals Quality Measurement System evaluates the quality of casework nationwide by selecting a national sample. The Appeals Quality Measurement System reported a 77 percent overall compliance rate for CDP/EH cases completed in Fiscal Year 2005. This is down from 80 percent and 88 percent for cases completed in Fiscal Years 2004 and 2003, respectively.

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 taxpayer has this right as long as all administrative remedies have been exhausted. The Appeals office that made the original determination generally retains jurisdiction over the case.¹²

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 notice of lien or a notice of intent to levy and the right of the taxpayer to appeal.¹³ The TIGTA has

⁸ The taxpayer may waive this requirement.

⁹ Notice of Determination Concerning Collection Action(s) Under I.R.C. Section 6320 and/or I.R.C. 6330 (Letter 3193/3194).

¹⁰ 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).

¹¹ Decision Letter Concerning Equivalent Hearing Under Section 6320 and/or 6330 of the I.R.C. (Letter 3210).

¹² C.F.R. §§ 301.6320-1(h) and 301.6330-1(h) (2002).

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



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divided this requirement into three statutory audits: one to review the filing of a notice of tax lien;¹⁴ one to review the intent to levy;¹⁵ and one to review the rights of taxpayers to appeal these issues,¹⁶ which is the focus of this report. This is the sixth annual audit of this area conducted by the TIGTA.

The previous TIGTA report on the Appeals process was issued in September 2005, and a majority of related IRS corrective actions were planned to be implemented by December 31, 2005.¹⁷ The scope of this year's audit covered CDP and EH cases closed between March 1 and July 31, 2005. Because these cases were closed prior to the completion of corrective actions by the IRS, we did not make recommendations for findings that repeat those from the previous audit.

This review was performed at the IRS National Headquarters in the Office of the Chief, Appeals, in Washington, D.C., during the period August 2005 through March 2006. The audit was conducted in accordance with *Government Auditing Standards*. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

¹⁴ 26 U.S.C. § 6320(a) (Supp. III 2000).

¹⁵ 26 U.S.C. § 6330(a) (Supp. III 2000).

¹⁶ 26 U.S.C. §§ 6320(b) and (c) and 26 U.S.C. §§ 6330(b) and (c) (Supp. III 2000).

¹⁷ *The Office of Appeals Should Strengthen and Reinforce Procedures for Collection Due Process Cases* (Reference Number 2005-10-138, dated September 2005). One corrective action, the implementation of an Electronic Filing System, was not planned to be completed until December 2007.



Results of Review

Some Office of Appeals Case Files Could Not Be Located or Were Missing Key Documents

Appeals procedures and guidelines included a list of documents required to be in a closed CDP or EH case file. These documents should be retained until the collection statute date expires for the tax period, generally 10 years from the date the tax was assessed. There were four key documents in the required list:

- Taxpayer's complete hearing request, including any applicable attachments, used to show why the taxpayer was seeking assistance from Appeals.
- Postmark from the envelope the taxpayer's hearing request was mailed in, used in determining the timeliness of the taxpayer's hearing request.
- Notification of levy or lien, used in determining the timeliness of the taxpayer's hearing request.
- Appeals hearing results provided to the taxpayer. This can be a copy of the Determination Letter or Summary Notice of Determination for a CDP case or the Decision Letter for an EH case. If the taxpayer decides to withdraw the hearing request, the signed Withdrawal¹⁸ should be in the closed case file in place of the hearing results letter.

We selected statistical samples of 80 cases each from the 8,089 CDP cases and 3,628 EH cases closed by Appeals between March 1 and July 31, 2005. Appeals could not locate 5 of the 80 CDP and 8 of the 80 EH case files requested for our samples. In addition, 61 of the 75 (81 percent) CDP and 62 of the 72 (86 percent) EH case files we received were missing at least 1 of the key documents needed to support and present Appeals' hearing results. Consequently, we could not verify if all actions were appropriate and met the requirements of the law for cases not provided or missing key documents. Table 1 summarizes the number of Appeals CDP and EH case files in our sample that were not provided or were missing key documents, as well as the projected estimates for the 5-month period of our review.

¹⁸ Withdrawal of Request for Collection Due Process Hearing (Form 12256).



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Table 1: Appeals Case Files Not Provided or Missing Key Documents

Reason Case Could Not Be Verified for Meeting All Laws, Guidelines, and Procedures	Sample of 80 CDP Cases From a Population of 8,089		Sample of 80 EH Cases From a Population of 3,628	
	Sample Exceptions	Estimate of Population	Sample Exceptions	Estimate of Population
Case file not provided	5	506	8	363
Case file received did not include complete hearing request	14	1,416	21	953
Case file received did not include envelope used to mail hearing request	44	4,449	47	2,132
Case file received did not include notification of levy or lien	40	4,045	55	2,495
Case file received did not include documentation of Appeals' determination	2	203	7	318
Total case files not provided or missing key documents	66*	6,674*	70*	3,175*

(*) Column does not total because some case files were missing more than one of the four key documents.

Source: TIGTA analysis of samples of 80 CDP and 80 EH cases closed by Appeals between March 1 and July 31, 2005.

Appeals case files not located or missing key documents could affect taxpayers. If a taxpayer has a change in circumstances that affects an Appeals determination, or if the Collection function does not properly carry out an Appeals determination, the case can return to Appeals. Documents similar to those missing from the case file would then have to be gathered or regenerated for Appeals to effectively resolve the case. This delay could burden a taxpayer by affecting the timely resolution of the case.

Appeals responded that physical storage limitations, low staffing levels, and lack of understanding of procedures contributed to its inability to locate requested case files and the absence of documents in the case files. Similar results were included in our previous report and, in response, Appeals' planned corrective actions included:

- Centralizing the closing and retention of CDP and EH case files to two campus¹⁹ locations.
- Reminding employees of the need to retain closed case files and what documents need to be maintained in those files.

¹⁹ The campuses are the data processing arm of the IRS. They 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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- Distributing a check sheet with instructions for case file contents to be used in every CDP and EH case.

These corrective actions were not scheduled to be completed until December 2005, which was subsequent to completion of this year's audit period. Therefore, we are making no recommendations in this report for case files that could not be located or were missing key documents. Additionally, Appeals management responded to our previous report that they were working on Electronic Case File programming and equipment for the creation of paperless files by December 2007, to minimize physical storage and potentially decrease the number of case files that can not be located or are missing key documents.

Classification of Hearing Requests Was Not Always Correct

If a taxpayer's hearing request is filed more than 30 calendar days after the date of a levy notice or more than 30 calendar days plus 5 business days after the filing of a lien, Appeals will provide the taxpayer an EH. This type of hearing is similar to a CDP hearing, but the IRS is not required to suspend collection activity while the EH is being conducted and the taxpayer does not have the right to a judicial review. However, the procedures used by Appeals to classify a hearing request based on its received date were inconsistent with information provided to the taxpayer and should be clarified. The incorrect classification of hearing requests could result in inequitable application of protection for taxpayers' CDP rights.

Appeals used a date other than the levy notification date provided to the taxpayer to determine timeliness

In most cases, the IRS mails the levy notification letter prior to the date on the letter to ensure the taxpayer receives it with the full 30 calendar days in which to appeal. The levy notification letter instructs the taxpayer to request a CDP hearing within 30 calendar days from the date of the letter. However, the Appeals procedure is to start the 30-day time period using the mailing date of the levy letter (i.e., when the notification was sent to the taxpayer). This practice contradicts the instructions provided to the taxpayer and the IRS' intent in mailing the letter early.

Although some hearing requests are submitted substantially past the 30-day time period and would not be affected by the Appeals classification procedure, others could be misclassified as EH cases, thus preventing taxpayers from receiving rights provided during a CDP case. We identified [REDACTED] in our sample of 80 EH cases. [REDACTED]

[REDACTED] but Table 2 shows how the different dates affected the timeliness determination for this hearing request.



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Table 2: Effect of Different Dates for Timeliness Determination

Date of Notice	Date of Notice Plus 30 Days	Received Date of Hearing Request	Timeliness Determination for Hearing Request
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]			

Source: TIGTA analysis of sample of 80 EH cases closed by Appeals between March 1 and July 31, 2005.

[REDACTED]

[REDACTED] We estimated 46 cases during our sample period were misclassified as EH cases and could have affected the rights of the taxpayers. To ensure taxpayer rights are protected, Appeals should use the same information provided to taxpayers when classifying hearing requests.

Procedures can be clarified and enforced to ensure equitable application when determining timeliness of hearing requests

The Appeals procedure to classify hearing requests is to use the IRS received stamp date on the hearing request, unless it is past the established deadline. If the received stamp date is past the deadline, the postmark date on the envelope is then used to determine timeliness. In response to our previous audit report, in January 2006, Appeals provided to hearing officers a guide that contained 22 examples covering various situations. We reviewed each of the examples and determined several contained timeliness determinations that did not follow Appeals' established procedures. We brought this to the attention of Appeals officials, who made immediate changes to the guide. The changes clarified the examples and brought them into compliance with Appeals procedures.

Although Appeals is actively reviewing and updating procedures for classification of hearing requests, it needs to enforce the procedures to ensure consistent application. We identified [REDACTED] in our sample of 80 for which [REDACTED]

[REDACTED]

[REDACTED] This computer code is typically input by the IRS Collection function to a taxpayer's account when a hearing request is received timely, to



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indicate the beginning date for suspension of collection activity. However, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] However, this is inequitable treatment of hearing requests and creates the potential for the IRS to miss an opportunity to collect tax revenue during an Appeals hearing for an EH case. We estimated 102 cases during our sample period were misclassified as CDP cases. Appeals should remind employees and managers of the procedures to use direct evidence to determine timeliness of a hearing request.

Recommendation

Recommendation 1: The Chief, Appeals, should review current procedures to ensure the process for determining the timeliness of CDP requests is consistent with the information provided to taxpayers and the templates are consistent and clearly indicate the dates to be used in the timeliness determination. Hearing officers should be reminded of these procedures, and managers should enforce these procedures when reviewing cases.

Management's Response: IRS management agreed with the recommendation and will revise their written guidance to include a consistent process to determine timeliness as well as update their templates. In addition, hearing officers will receive training for the revisions.

Impartiality Statements Were Not Always Provided or Supported As Required

CDP and EH hearings must be conducted by a hearing officer with no prior involvement regarding the unpaid tax, unless the taxpayer waives this requirement. To comply with this requirement, Appeals procedures required CDP Determination Letters and EH Decision Letters to include an impartiality statement. Additionally, in the case of a Summary Notice of Determination, the impartiality statement should be included in either the Notice itself, the Appeals Transmittal and Case Memo (Form 5402), or a more detailed case memorandum, if included in the file.

Appeals issued guides, including one updated in February 2002, to help hearing officers in writing Determination and Decision Letters. The guides contained templates for the Letters, which included impartiality statements. However, impartiality statements were not always



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included in the Letters provided to taxpayers. Of the 43 CDP Determination Letters and 13 CDP Summary Notices of Determination we reviewed, 7 did not have an impartiality statement.²⁰ Of the 53 EH Decision Letters we reviewed, 4 did not have an impartiality statement.²¹ Based on our samples, we estimated that 708 CDP and 182 EH cases closed by Appeals between March 1 and July 31, 2005, did not contain an impartiality statement in the Letter provided to the taxpayer. Additionally, we did not find supporting evidence for any of the impartiality statements made in the 49 CDP and 49 EH cases that contained impartiality statements in the Letters provided to the taxpayers. Based on our samples, we estimated that 4,955 CDP and 2,223 EH cases closed by Appeals between March 1 and July 31, 2005, did not contain supporting evidence for the hearing officers' impartiality statements.

Because the impartiality of the hearing officer is a legal requirement, the notification of no prior involvement should always be included in Letters provided to taxpayers and be supported by evidence in the case file. Had the templates been consistently used, the impartiality statements would have been in all Determination and Decision Letters. While the lack of impartiality statements in the Letters or evidence in the Appeals case files appears to be an oversight and does not necessarily indicate a lack of impartiality (we did not find hearing officers with prior involvement with the unpaid tax), hearing officers are required to certify their impartiality.

In addition, hearing officers should have evidence in the case files to support statements, including impartiality, in the Letters provided to taxpayers. Because the case file is used by the courts for judicial review, there should be some evidence to support the hearing officer's statement of impartiality other than just the statement itself. Without case file support, there is no evidence to inform the taxpayer and any reviewing court that the hearing officer had no prior involvement with the unpaid tax liability under review and, therefore, could provide an impartial hearing. We also reported this condition last year. The Appeals corrective action emphasized and provided guidance for including impartiality statements in Letters provided to taxpayers, but the corrective action did not address the issue of including supporting evidence for impartiality statements in case files.

Appeals officials responded that, although hearing officers were to include impartiality statements in their Determination and Decision Letters, the fallback was the initial Appeals contact letter. We reviewed this initial contact letter and determined it did not include an impartiality statement by the assigned hearing officer. The letter informed the taxpayer of the

²⁰ In our original sample of 80 closed CDP cases, 2 cases should have had Determination Letters issued, but the Letters were not included in the files; 17 cases were withdrawn; and 5 case files were not provided to us. We did not include these 24 cases in this test. None of the remaining 56 cases (43 + 13) contained taxpayer waivers of the impartiality requirement; therefore, these 56 cases should have contained impartiality statements.

²¹ In our original sample of 80 closed EH cases, 7 cases should have had Decision Letters issued, but the Letters were not included in the files; 12 cases were withdrawn; and 8 case files were not provided to us. We did not include these 27 cases in this test. None of the remaining 53 cases contained taxpayer waivers of the impartiality requirement; therefore, these 53 cases should have contained impartiality statements.



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right to an impartial hearing officer and asked the taxpayer to inform the hearing officer if the taxpayer believed the hearing officer was previously involved. However, the Appeals contact letter did not include any statement from the hearing officer that, to the best of the hearing officer's knowledge, he or she had not been previously involved in the taxpayer's case and was thus impartial. After our review, Appeals provided us with a revised copy of the contact letter which did contain a statement by the hearing officer regarding his or her impartiality. This new letter was implemented in November 2005, so it was not yet in use during the time of our review.

Recommendation

Recommendation 2: The Chief, Appeals, should emphasize the importance of case files containing evidence to support the impartiality statement of the assigned hearing officer.

Management's Response: IRS management agreed with the recommendation and will revise their written guidance to include additional examples and clearer documentation requirements. In addition, hearing officers will receive training for the revisions.

Procedures for Suspension of Collection Activity Should Continue to Be Strengthened to Ensure Taxpayer Rights Are Protected

A CDP hearing request is held in response to an action taken by the Collection function. When a CDP hearing request is received timely, collection activity is suspended from the date the hearing request is received until (1) the date the Appeals determination becomes final or (2) the date the hearing request is withdrawn by the taxpayer.²² As the initial recipient of the taxpayer's hearing request, the Collection function enters computer coding on the taxpayer's account to start the collection activity suspension period before transferring the case to Appeals. Later, when Appeals returns the case after the CDP hearing, the Collection function enters computer coding on the taxpayer's account to restart collection activity. These computer codes are used to help communicate to IRS employees when suspension of collection activity is in effect and to recalculate the expiration date for the collection statute. This applies only to CDP cases because there is no requirement to suspend collection activity for EH cases.


One of the first tasks of the hearing officer is to verify the timeliness of the hearing request and the date the suspension of collection activity began. Appeals procedures require verification by the hearing officer to be supported in the case file. [REDACTED]

²² C.F.R. §§ 301.6320-1(g) and 301.6330-1(g) (2002).



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 We estimated 102 CDP cases in our sample period did not have collection activity suspended for the duration of the Appeals hearing.

Although the remaining CDP cases in our sample had the appropriate computer coding for suspending collection activity on the taxpayers' accounts, 24 case files did not contain support to indicate the hearing officer had verified the date collection activity was suspended. We estimated 2,427 CDP cases did not contain the verification support in the case files. Conducting this verification for every CDP hearing can help ensure this process consistently occurs to protect taxpayer rights.

We also identified 11 cases in which the codes were not entered at the end of the hearing process to restart collection activity. This meant that collection activity remained suspended even though the IRS had the right to resume collection activities. We estimated 1,113 CDP cases in our sample period did not have proper coding on the taxpayers' accounts to restart collection activity.

In its response to our previous report, beginning in December 2005, Appeals planned to assume responsibility for entering the computer codes to begin suspending and restarting collection activity on taxpayers' accounts. However, Appeals later amended its corrective action to involve only the entering of the computer code for restarting collection activity. We agree with Appeals' amended corrective action because the Collection function has initial control of the case when the taxpayer requests a CDP hearing. Appeals is in a better position to know when the hearing concluded and thus to enter the computer code for restarting collection activity. Although this new process should decrease the possibility of missing the input of computer codes for suspending collection activity, it does not minimize the importance of Appeals verifying the initial coding when hearings begin. Appeals should still verify the suspension of collection activity is in place at the beginning of the CDP hearing, to ensure taxpayer rights are protected. If an error is identified, Appeals should have an internal process to immediately correct the taxpayer's account, which would prevent IRS employees from inappropriately attempting a collection action.

Recommendation

Recommendation 3: The Chief, Appeals, should ensure hearing officers verify suspension of collection activity at the beginning of CDP hearings by consistently providing support in case files that this action occurred. In addition, the Chief, Appeals, should ensure Appeals has a process to immediately correct taxpayers' accounts when hearing officers identify missing computer coding for suspension of collection activity.



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Management's Response: IRS management agreed with the recommendation and will revise their written guidance as well as update their templates. Hearing officers will receive training for the revisions. In addition, Appeals will develop and implement a procedure to immediately correct taxpayer accounts when hearing officers identify missing computer coding for suspension of collection activity.

Determination and Decision Letters Met Minimum Requirements but Need Further Support in Case Files

Appeals procedures required that the Determination and Decision Letters include a clear and detailed explanation of the basis for the hearing officer's decision. At a minimum, each Letter must include:

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

All of the 43 CDP Determination Letters, 13 CDP Summary Notices of Determination, and 53 EH Decision Letters we reviewed met Appeals' minimum standard for documentation in Letters provided to taxpayers. However, 11 CDP and 8 EH case files did not contain supporting evidence for the hearing officer's verification that laws and regulations were met, and 2 CDP and 6 EH case files did not contain supporting evidence for the hearing officer's verification of balanced collection action.²³ These case files contained standardized statements listing the requirements, and that they were met, but no supporting information specific to the case to indicate the hearing officer actually researched the case.

Appeals staff suggested that the administrative files maintained by the Collection function might contain additional supporting documentation. Based on this suggestion, we decided to review the administrative files for the cases discussed above. We received and reviewed the administrative files for 16 (7 CDP and 9 EH) of the 22 cases that did not have sufficient supporting evidence in the case file for the hearing officer's verification that laws and regulations were met and/or of balanced collection action.²⁴ We determined that 14 of the 16 files contained

²³ Our sample identified 22 cases (12 CDP and 10 EH cases) without the required supporting documentation in the file. Of those 22 cases, 5 (1 CDP and 4 EH cases) were missing documentation to support both types of exceptions we identified.

²⁴ We ordered administrative files for all 22 CDP and EH cases for which the Appeals case files did not contain sufficient supporting evidence. However, we did not receive six of the administrative files; two files were charged out to other employees, two contained no CDP documentation, and two showed unserviceable requests.



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the information that was missing from the Appeals files, while 2 CDP files did not contain supporting evidence for the hearing officer's verification that laws and regulations were met.

We estimated the Appeals case files for 1,113 CDP and 363 EH cases in our sample period did not contain supporting evidence for the hearing officer's verification that laws and regulations were met and the Appeals case files for 203 CDP and 273 EH cases did not contain supporting evidence for the hearing officer's verification of balanced collection action. We estimated that neither the Appeals case files nor the administrative files for 203 CDP cases in our sample period contained supporting evidence for the hearing officer's verification that laws and regulations were met.

We also identified [REDACTED] in which [REDACTED]

1,2

[REDACTED]
[REDACTED] We estimated that in 46 EH cases in our sample period the hearing officer did not fully address the issues raised by the taxpayer.

The need to adequately support the actions and decisions of the hearing officer was discussed in Appeals procedures, which required hearing officers to "Thoroughly document these three areas in the attachment to the determination letter, as the court will evaluate Appeals through our documented actions in determining whether to sustain Appeals."²⁵ Without sufficient support in the case file, a court will be unable to verify the actions taken by the hearing officer to determine if they were appropriate. Appeals personnel believe additional supporting documentation may be in another set of files maintained by Compliance function employees, which was not included in our review.

Recommendation

Recommendation 4: The Chief, Appeals, should develop a process to ensure all actions taken by hearing officers to support decisions and verifications contained in Letters to taxpayers are clearly documented.

Management's Response: IRS management agreed with the recommendation and will revise their written guidance to include the requirement to document all actions taken to

²⁵ Internal Revenue Manual 8.7.2.3(17). The three areas referred to in the procedure are those listed at the beginning of this section.



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support decisions and verifications contained in Letters to taxpayers. In addition, hearing officers will receive training for this requirement.



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Appendix I

Detailed Objective, Scope, and Methodology

The objective of this audit was to determine whether the IRS complied with the provisions of 26 U.S.C. Sections (§§) 6320 and 6330¹ when taxpayers exercised their rights to appeal the filing of a lien or the intent to levy. To accomplish this objective, we:

- I. Determined whether any new procedures or processes had been developed since the prior TIGTA statutory review. This involved interviews with Appeals officials to obtain documentation supporting the implementation of corrective actions to prior TIGTA audit reports and other procedural or process changes.
- II. Determined whether Appeals' CDP and EH case files could be located and contained minimum documentation for a hearing.
 - A. Obtained a computer extract from the Appeals Centralized Database System (ACDS)² file maintained at the TIGTA Data Center Warehouse³ of CDP and EH cases closed between March 1 and July 31, 2005. We validated the computer extract using information from the TIGTA Data Center Warehouse, reviewed appropriateness of data within fields requested, and compared population totals to information obtained from Appeals officials.
 - B. Selected, requested Appeals to provide, and reviewed a sample of 80 CDP and 80 EH case files and determined whether the case files could be located and contained minimum documentation for a CDP or an EH hearing.
 1. Selected statistical attribute samples of 80 CDP cases (from a population of 8,089 cases) and 80 EH cases (from a population of 3,628 cases) based on a confidence level of 90 percent, a precision rate of ± 5.5 percent, and an expected error rate of 10 percent.
 2. Requested and determined whether Appeals could provide the sample case files. We discussed exceptions with Appeals officials to confirm and determine causes. After confirmation, we estimated the number of potential exceptions within the population.

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

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

³ The TIGTA 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, reviewed to determine whether the file contained the minimum documentation to support a CDP or an EH hearing, 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 IRC⁴ 6320 (Letter 3172); Request for a Collection Due Process 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 (IRC) (Letter 3210); transcript of the taxpayer's account; and an Integrated Collection System or Automated Collection System history.⁵ We discussed exceptions with Appeals officials to confirm and determine causes. After confirmation, we estimated the number of potential exceptions within the population.
- III. Determined whether CDP and EH cases were misclassified (should have been EH or CDP).
 - A. Using the samples selected in Step II.B.1.; Internal Revenue Code §§ 7502/7503 requirements;⁶ and procedures in Internal Revenue Manual sections 5.1.9.3.2.1/5.19.8, reviewed ACDS, case files, and tax account transcript information to determine whether the taxpayers' hearing requests were received timely or late and were properly classified.
 - B. Discussed exceptions with Appeals officials to confirm and determine causes. After confirmation, we estimated the number of potential exceptions within the population.
 - IV. Determined whether Appeals was in compliance with 26 U.S.C. §§ 6320 and 6330 when handling CDP and EH hearing requests.
 - A. Using the samples selected in Step II.B.1., determined whether the items listed below were addressed by the hearing officer.⁷

⁴ "IRC" is the Internal Revenue Code.

⁵ The Integrated Collection System provides workload management, case assignment/tracking, inventory control, electronic mail, case analysis tools, and management information capabilities to support tax collection fieldwork. The Automated Collection System is a telephone contact system through which telephone assistants collect unpaid taxes and secure tax returns from delinquent taxpayers that have not complied with previous notices.

⁶ 26 U.S.C. §§ 7502 and 7503 (Supp. III 2000).

⁷ Hearing officers are either Appeals officers or settlement officers.



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1. The taxpayer was provided only one hearing for the tax period⁸ 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 or the proposed lien or levy action, including appropriate spousal defenses, challenges to the appropriateness of collection activities, offers of collection alternatives, or the underlying liability. [26 U.S.C. § 6330(c)(2)]
 5. The hearing officer made a determination after considering whether any proposed collection action balances efficient tax collection with the taxpayer's legitimate concern that any collection action be no more intrusive than necessary. [26 U.S.C. § 6330(c)(3)]
 6. Determined whether Appeals complied with current Internal Revenue Manual guidelines for documenting case actions.
- B. Discussed exception cases with Appeals officials to confirm and determine causes. After confirmation, we estimated the number of potential exceptions within the population.
- C. For those CDP and EH sample Appeals case files missing required supporting documentation, obtained and reviewed the related administrative files from the Collection function to determine whether additional supporting documentation was maintained. We estimated the number of potential exceptions within the population.

⁸ The tax period is a measure of time for which a tax return is required to be filed.



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Appendix II

Major Contributors to This Report

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The Office of Appeals Should Continue to Strengthen and Reinforce Procedures for Collection Due Process Cases

Appendix III

Report Distribution List

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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; 7,281 closed CDP cases either could not be located by Appeals; were not properly classified; or did not contain sufficient documentation, a sufficient impartiality statement, and/or verification of the suspension of collection activity (see pages 4, 6, 8, 10, and 12).

Methodology Used to Measure the Reported Benefit:

Using a computer extract from the ACDS,¹ we identified a population of 8,089 CDP cases closed between March 1 and July 31, 2005. We selected a statistical sample of 80 CDP cases and found 72 (90 percent) could not be located by Appeals; were not properly classified; or did not contain sufficient documentation, sufficient impartiality statement, and/or verification of the suspension of collection activity. We projected the results of our sample, using a 90 percent confidence level and a precision rate of ± 5.49 percent, and estimated 7,281 CDP cases could affect taxpayer rights and entitlements.

The 72 CDP cases were comprised of the following:

- There were 66 CDP case files that either could not be located by Appeals or did not contain documentation sufficient to determine if the IRS complied with the guidelines and procedures to protect taxpayer rights when appealing lien and levy actions (see page 4). Using a 90 percent confidence level, we estimated:

¹ The ACDS is a computerized case control system used to control and track cases throughout the appeal process.



The Office of Appeals Should Continue to Strengthen and Reinforce Procedures for Collection Due Process Cases

Reason CDP Case Could Not Be Verified for Meeting All Guidelines and Procedures	Number of Sample Cases	Error Rate	Estimate of Total Cases	Precision of Estimate
Case file not provided	5	6.25%	506	±4.43%
Case file received did not include complete hearing request	14	17.5%	1,416	±6.95%
Case file received did not include envelope used to mail hearing request	44	55%	4,449	±9.1%
Case file received did not include notification of levy or lien	40	50%	4,045	±9.15%
Case file received did not include documentation of Appeals' determination	2	2.5%	203	±2.86%
Totals	66*	82.5%*	6,674*	±6.95%

(*) Column does not total because some case files were missing more than one of the four key documents.

- [REDACTED]
- Using a 90 percent confidence level and a precision of ±2.03 percent, we estimated 102 cases were misclassified as CDP cases.
- There were 7 CDP case files (8.75 percent) that did not contain an impartiality statement in the Determination Letters or Summary Notices of Determination (see page 9). Using a 90 percent confidence level and a precision of ±5.17 percent, we estimated 708 cases did not include an impartiality statement in the Determination Letters or Summary Notices of Determination.
- There were 25 CDP cases (31.25 percent) that had 1 of the following errors: no suspension of collection activity or no documentation to indicate verification of the timeliness of the hearing request and the date suspension of collection activity should begin (see pages 10 and 11). Using a 90 percent confidence level, we estimated:

Reason Suspension of Collection Activity Was Not Adequate	Number of Sample Cases	Error Rate	Estimate of Total Cases	Precision of Estimate
Computer code to suspend collection activity was not input on taxpayer's account	1 [REDACTED]		102	±2.03%
Case file did not contain documentation to indicate verification of the timeliness of the hearing request and the date suspension of collection activity should begin	1 [REDACTED]		2,427	±8.39%
Totals	1 [REDACTED]		2,528*	±8.48%

(*) Column does not total due to rounding.

- There were 12 CDP cases (15 percent) for which the case file did not contain sufficient documentation to support the hearing officer's verification that laws and regulations were met and/or the hearing officer's verification of balanced collection action (see page 12). Using a 90 percent confidence level, we estimated:



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Area With Insufficient Supporting Documentation	Number of Sample Cases	Error Rate	Estimate of Total Cases	Precision of Estimate
Verification that laws and regulations were met	11	13.75%	1,113	±6.30%
Verification of balanced collection action	2	2.5%	203	±2.86%
Totals	12*	15%*	1,214*	±6.53%

(*) Column does not total because

- There were 2 CDP cases (2.5 percent) for which neither the Appeals case file nor the administrative file contained sufficient documentation to support the hearing officer's verification that laws and regulations were met (see page 12). Using a 90 percent confidence level and a precision of ±2.86 percent, we estimated that for 203 CDP cases neither the Appeals case file nor the administrative file contained sufficient documentation to support the hearing officer's verification that laws and regulations were met.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 3,356 closed EH cases either could not be located by Appeals, were not properly classified, or did not contain sufficient documentation and/or sufficient impartiality statement (see pages 4, 6, 8, and 12).

Methodology Used to Measure the Reported Benefit:

Using a computer extract from the ACDS, we identified a population of 3,628 EH cases closed between March 1 and July 31, 2005. We selected a statistical sample of 80 EH cases and found 74 (92.5 percent) could not be located by Appeals, were not properly classified, or did not contain sufficient documentation and/or sufficient impartiality statement. We projected the results of our sample, using a 90 percent confidence level and a precision rate of ± 4.79 percent, and estimated 3,356 EH cases could affect taxpayer rights and entitlements.

The 74 EH cases were comprised of the following:

- There were 70 EH case files that either could not be located by Appeals or did not contain documentation sufficient to determine if the IRS complied with the guidelines and procedures to protect taxpayer rights when appealing lien and levy action (see page 4). Using a 90 percent confidence level, we estimated:



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Reason EH Case Could Not Be Verified for Meeting All Guidelines and Procedures	Number of Sample Cases	Error Rate	Estimate of Total Cases	Precision of Estimate
Case file not provided	8	10%	363	±5.46%
Case file received did not include complete hearing request	21	26.25%	953	±8%
Case file received did not include envelope used to mail hearing request	47	58.75%	2,132	±8.95%
Case file received did not include notification of levy or lien	55	68.75%	2,495	±8.43%
Case file received did not include documentation of Appeals' determination	7	8.75%	318	±5.14%
Totals	70*	87.5%*	3,175*	±6.01%

(*) Column does not total because some case files were missing more than one of the four key documents.

- 1
Using a 90 percent confidence level and a precision of ±2.02 percent, we estimated 46 cases were misclassified as EH cases.
- There were 4 EH case files (5 percent) that did not contain an impartiality statement in the Decision Letters (see page 9). Using a 90 percent confidence level and a precision of ±3.96 percent, we estimated 182 cases did not include an impartiality statement in the Decision Letters.
- There were 10 EH cases (12.5 percent) for which the case file did not contain sufficient documentation to support the hearing officer's verification that laws and regulations were met and/or the hearing officer's verification of balanced collection action (see page 12). Using a 90 percent confidence level, we estimated:

Area With Insufficient Supporting Documentation	Number of Sample Cases	Error Rate	Estimate of Total Cases	Precision of Estimate
Verification that laws and regulations were met	8	10%	363	±5.46%
Verification of balanced collection action	6	7.5%	273	±4.79%
Totals	10*	12.5%*	454*	±6.01%

(*) Column does not total because some case files were missing sufficient documentation in both areas.



The Office of Appeals Should Continue to Strengthen and Reinforce Procedures for Collection Due Process Cases

Type and Value of Outcome Measure:

- Increased Revenue – Potential; 1,113 closed CDP cases did not have the expiration date for the collection statute recalculated (see page 10).

Methodology Used to Measure the Reported Benefit:

Using a computer extract from the ACDS, we identified a total population of 8,089 CDP cases closed between March 1 and July 31, 2005. We selected a statistical sample of 80 CDP cases and found 11 cases (13.75 percent) that did not have the expiration date for the collection statute recalculated, which could affect the collection of tax revenue. Using a 90 percent confidence level and a precision of ± 6.3 percent, we estimated 1,113 cases did not have the expiration date for the collection statute recalculated.



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Appendix V

Management's Response to the Draft Report




CHIEF, APPEALS

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

AUG 30 2006

RECEIVED
AUG 31 2006

MEMORANDUM FOR TREASURY INSPECTOR GENERAL FOR
TAX ADMINISTRATION

FROM: Sarah Hall Ingram 
Chief, Appeals

SUBJECT: Response to Draft Report - Audit 2005-10-037
The Office of Appeals Should Continue to Strengthen and Reinforce Procedures for Collection Due Process

I have reviewed the subject draft audit report, and I appreciate your continuing efforts to help us improve the processing of Collection Due Process (CDP) cases. Since the inception of CDP, Appeals has been working aggressively and diligently to improve the process and our work product, and your recommendations will further both efforts.

We agree there is a need for consistent procedures to determine timeliness. We need a continued emphasis on the importance of documenting the impartiality of the hearing officer and that hearing officers verify suspension of the collection activity. Appeals will continue its efforts to improve its process and is committed to work with the operating units to implement consistent servicewide policy.

Attached are our corrective actions in response to your recommendations. If you have any questions, please contact Diane Ryan, Director, Technical Services at (314) 612-4640 or have a member of your staff contact Nancy Talajkowski, Program Analyst at (415) 227-5007.

Attachment



The Office of Appeals Should Continue to Strengthen and Reinforce Procedures for Collection Due Process Cases

Recommendation 1

The Chief, Appeals should review current procedures to ensure the process for determining the timeliness of CDP requests is consistent with the information provided to taxpayers and the templates are consistent and clearly indicate the dates to be used in the timeliness determination. Hearing officers should be reminded of these procedures and managers should enforce these procedures when reviewing cases.

Proposed Corrective Action:

Revise and publish IRM 8.7.2, Determination Letter Guide, with a consistent process of determining timeliness. The CDP template will also be updated and placed on APGOLF, with accompanying drop down boxes and instructions to facilitate its use by Settlement Officers. Guidance on these changes will be provided to Settlement Officers during their FY 2006 CPE.

Implementation Date: January 15, 2007

Responsible Official: Director, Technical Services

Corrective Action Monitoring Plan: Director, Tax Policy and Procedure (Collection) will inform the Director, Technical Services of any delays in implementing this corrective action.

Recommendation 2

The Chief, Appeals should emphasize the importance of case files containing evidence to support the impartiality statement of the assigned hearing officer.

Proposed Corrective Action:

Revise and publish IRM 8.7.2 with new a section of "No Prior Involvement" that will include examples, scenarios and clearer documentation requirements. Guidance on these changes will be provided to Settlement Officers during their FY 2006 CPE.

Implementation Date: January 15, 2007

Responsible Official: Director, Technical Services

Corrective Action Monitoring Plan: Director, Tax Policy and Procedure (Collection) will inform the Director, Technical Services of any delays in implementing this corrective action.

Recommendation 3

The Chief, Appeals should ensure hearing officers verify suspension of collection activity at the beginning of CDP hearings by consistently providing support in case files that this action occurred. In addition, the Chief, Appeals should ensure Appeals has a



The Office of Appeals Should Continue to Strengthen and Reinforce Procedures for Collection Due Process Cases

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process to immediately correct taxpayers' accounts when hearing officers identify missing computer coding for suspension of collection activity.

Proposed Corrective Action:

Revise and publish IRM 8.7.2, Contents of Determination and Decision Letters, to add the requirement to document that the collection statute has been suspended. The revised CDP template will also include a prompt that appropriate documentation of TC 520 was made. Guidance on these changes will be provided to Settlement Officers during their FY 2006 CPE.

Appeals will develop and implement a procedure to immediately correct a taxpayer's account when the hearing officer identifies a missing TC 520.

Implementation Date: January 15, 2007

Responsible Official: Director, Technical Services

Corrective Action Monitoring Plan: Director, Tax Policy and Procedure (Collection) will inform the Director, Technical Services of any delays in implementing this corrective action.

Recommendation 4

The Chief, Appeals should develop a process to ensure all actions taken by hearing officers to support decisions and verifications contained in letters to taxpayers are clearly documented.

Proposed Corrective Action:

Revise and publish IRM 8.7.2.3.3, Case Receipt Review and Controls under Collection Due Process, the requirement to document all actions taken to support decisions and verifications contained in letters to taxpayers. Guidance on these changes will be provided to Settlement Officers during their FY 2006 CPE.

Implementation Date: January 15, 2007

Responsible Official: Director, Technical Services

Corrective Action Monitoring Plan: Director, Tax Policy and Procedure (Collection) will inform the Director, Technical Services of any delays in implementing this corrective action.