

**Appeals Complied With the Provisions of the  
Law for the Collection Due Process**

**March 2004**

**Reference Number: 2004-40-067**

**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:**

3d = Identifying Information - Other Identifying Information of an Individual or Individuals



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

INSPECTOR GENERAL  
for TAX  
ADMINISTRATION

March 26, 2004

MEMORANDUM FOR CHIEF, APPEALS

*Gordon C. Milbourn III*

FROM: Gordon C. Milbourn III  
Acting Deputy Inspector General for Audit

SUBJECT: Final Audit Report - Appeals Complied With the Provisions of the Law for the Collection Due Process (Audit # 200340055)

This report presents the results of our review of Internal Revenue Service (IRS) compliance with the law regarding taxpayer rights to appeal the filing of a lien or intent to levy. The overall objective of this review was to determine whether the IRS complied with the provisions of 26 United States Code (U.S.C.) Sections (§§) 6320 and 6330<sup>1</sup> when taxpayers exercised their right to appeal the filing of a lien or the intent to levy. The Treasury Inspector General for Tax Administration (TIGTA) is required to determine annually if the IRS complied with the legal guidelines and required procedures for the filing of a notice of lien or a notice of intent to levy and the right of the taxpayer to appeal.<sup>2</sup>

The Appeals Officers and Settlement Officers (hearing officers) substantially complied with the requirements of the law when conducting Collection Due Process (CDP) hearings. The hearing officers verified that the IRS followed the applicable laws or administrative procedures during the lien and levy process. They determined if the proposed collection actions properly balanced the need for efficient collection of taxes with any legitimate taxpayer concerns. In addition, the hearing officers followed Appeals procedures by including information such as in which court the taxpayers must file their requests for judicial review, any relief given to the taxpayers, and any subsequent actions to be taken by the IRS and the taxpayers.

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----- As such, the hearing officer did not follow

<sup>1</sup> 26 U.S.C. §§ 6320 and 6330 (Supp. IV 1998).  
<sup>2</sup> 26 U.S.C. §§ 7803(d)(1)(A)(iii) and (iv) (Supp. IV 1998).

all requirements of the law by not providing the requested levy hearing. In another 7 (10.8 percent) of the CDP cases reviewed, the hearing officers did not address, in the determination letters and summary notices of determination, all of the issues raised by the taxpayers.

We recommended that, for the 3d-----  
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The recommendations from our Fiscal Year 2002 report will continue to provide benefits on tax administration by protecting taxpayers' rights and entitlements for 67 CDP cases in which hearing officers did not always follow the provision of the law and 470 CDP cases in which the hearing officers did not always address all provisions of the law in the determination letter. Appendix IV of this report provides a detailed description of these benefits, which will be included in our Semiannual Report to the Congress.

Management's Response: IRS management responded that they have been working aggressively to improve the processing of CDP cases in a variety of ways: through training of employees not as familiar with Collection function issues, through providing detailed instructions, and through expansion of webpage examples and other contents.

The IRS agreed with our recommendation for 3d-----  
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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 recommendation. Please contact me at (202) 622-6510 if you have questions or Michael R. Phillips, Assistant Inspector General for Audit (Wage and Investment Income Programs), at (202) 927-0597.

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## Appeals Complied With the Provisions of the Law for the Collection Due Process

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### **Background**

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When initial contacts by the Internal Revenue Service (IRS) do not result in the successful collection of unpaid taxes, the IRS has the authority to attach a claim to the taxpayer's assets for the amount of unpaid tax liability.<sup>1</sup> This claim is commonly referred to as a lien. The IRS also has the authority to work directly with financial institutions and other parties to obtain from them funds that are owed to the taxpayer.<sup>2</sup> This procedure is commonly referred to as a levy.

Since January 19, 1999, the IRS has been required to notify taxpayers in writing when a Notice of Federal Tax Lien has been filed and to let taxpayers know of its intent to levy.<sup>3</sup> The taxpayers may appeal the lien or levy action through the Collection Due Process (CDP). This is done by filing a Request for a Collection Due Process Hearing (Form 12153) or other written communication to formally request a CDP hearing. The taxpayer must do so within 30 calendar days plus 5 business days of the filing of the lien or 30 calendar days from the date of the levy notice.

The taxpayer is entitled to only one CDP hearing for the tax periods covered by the lien or levy. Once the IRS receives a CDP hearing request, all tax collection efforts are suspended until the Appeals function issues its determination to the taxpayer and the taxpayer has the opportunity to appeal to the tax court.

Once a hearing is requested and collection actions are suspended, an impartial Appeals Officer or Settlement Officer (hearing officer) should conduct the appeal proceedings. According to the statute, an impartial hearing officer would have no prior involvement with respect to the unpaid tax liability under review.

During the CDP hearing, the hearing officer must determine whether the IRS followed all applicable laws or administrative procedures related to the lien or levy. The hearing officer must also address any issues the taxpayer may raise relevant to the unpaid tax or the proposed levy, such as an appropriate spousal defense, a challenge to the

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<sup>1</sup> 26 United States Code (U.S.C.) Section (§) 6321 (1994).

<sup>2</sup> 26 U.S.C. § 6331 (1994 and Supp. IV 1998).

<sup>3</sup> Treasury Regulation § 301.6320 and § 301.6330 (January 18, 2002).

## Appeals Complied With the Provisions of the Law for the Collection Due Process

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appropriateness of the collection actions, and other collection alternatives. However, the taxpayer may not raise an issue that was considered at a prior administrative or judicial hearing as long as the taxpayer participated meaningfully in the prior proceeding.

After considering the issues and if the proposed collection action balances efficient tax collection with the taxpayer's legitimate concerns, the Appeals function issues a determination letter or summary notice of determination to the taxpayer.<sup>4</sup> The determination letter and summary notice of determination present the hearing officer's findings and decisions, agreements reached with the taxpayer, any relief given the taxpayer, and any actions the taxpayer and the IRS are required to take. The determination letter also provides an explanation of the right to appeal the IRS' decision within 30 days of the date of the Appeals function determination by filing a petition or complaint in the appropriate Federal Tax Court or United States (U.S.) District Court. When a summary notice of determination is issued, the taxpayer waives the right to appeal. A synopsis of the IRS collection process, lien and levy filing procedures, and the CDP is included in Appendix V.

The Treasury Inspector General for Tax Administration (TIGTA) is required to determine annually if the IRS complied with the legal guidelines and required procedures for the filing of a notice of lien or a notice of intent to levy and the right of the taxpayer to appeal.<sup>5</sup> This is the fourth audit conducted by the TIGTA of the Appeals function's compliance with the CDP guidelines and procedures.

We performed this audit in the National Headquarters of the Chief, Appeals, in Washington, D.C., from August to December 2003. 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.

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<sup>4</sup> Determination Letter (Letter 3193-c) and Summary Notice of Determination, Waiver of Right to Judicial Review of a CDP Determination, and Waiver of Suspension of Levy Action (Form 12257).

<sup>5</sup> 26 U.S.C. §§ 7803(d)(1)(A)(iii) and (iv) (Supp. IV 1998).

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**Hearing Officers Substantially  
Complied With the Law and  
Appeals Procedures When  
Conducting Collection Due  
Process Hearings**

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The hearing officers substantially complied with the requirements of 26 U.S. Code (U.S.C.) Sections (§§) 6320 and 6330<sup>6</sup> when conducting CDP hearings. In 58 (98.5 percent) of 59 CDP cases reviewed,<sup>7</sup> the hearing officers adequately considered the following provisions of the law. The hearing officers:

- .. Obtained verification that the IRS followed the applicable laws or administrative procedures during the lien and levy process.
- .. Considered the issues raised by the taxpayer.
- .. Considered if the proposed collection actions properly balanced the need for efficient collection of taxes with any legitimate concerns of the taxpayer about the intrusiveness of the liens or levies.

The hearing officers generally took the necessary and proper actions in the CDP cases reviewed. When taxpayers did not respond to contacts or attend CDP hearings, the hearing officers made determinations as appropriate based on available information. In these CDP cases, the hearing officers were required to make the decisions and issue determination letters based on the information available in the files and on IRS computer systems.

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<sup>6</sup> 26 U.S.C. §§ 6320 and 6330 (Supp. IV 1998).  
<sup>7</sup> Our sample consisted of 65 CDP cases, but documentation was available to make a determination of compliance with the legal provisions of the law in only 59 of those cases. However, to be conservative, report projections and error rates were based on the 65 cases sampled assuming the 6 cases that could not be reviewed were correct (see Appendix IV).  
<sup>8</sup> Error rate is calculated based on the total sample of 65 cases.  
<sup>9</sup> The ACDS is a computerized case control system used to control and track cases throughout the appeal process.

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Projecting to the total population of 4,362 CDP cases with determination letters and summary notices of determination on the ACDS between May 1, 2003, and July 31, 2003, similar taxpayer entitlements could have been affected in 67 CDP cases. If a requested hearing was not held and collection actions were initiated, there would be the potential for a legal violation in those CDP cases.

In 6 (9.2 percent) of the 65 CDP cases sampled, the files maintained by the Appeals function did not contain sufficient documentation for us to determine whether the hearing officers had considered the issues raised by the taxpayer and any legitimate concerns over the intrusiveness of the liens or levies. Specifically, the six case files did not contain the documents the taxpayers submitted outlining the specific challenges raised in the appeal, the Forms 12153, or any other written requests.

Once a CDP hearing was complete, the Appeals function maintained a file documenting the CDP hearing process. However, the Appeals function does not require that the Form 12153 be maintained. The Appeals function forwards the complete hearing file that contains the Form 12153 and other CDP case documentation to the next IRS function that will handle future case actions once it is determined the taxpayer will not appeal. We requested copies of the Forms 12153 from the Appeals function, but it was unable to obtain this documentation for these six CDP cases.

The Appeals function provided guidance to assist the hearing officers in conducting CDP hearings to comply with the legal requirements in 26 U.S.C. §§ 6320 and 6330. The Appeals function also established a procedure in which the Appeals Team Managers review proposed determination letters to assure the correctness of the proposed actions. There was also an established quality review process in which a sample of CDP cases is periodically reviewed through the Appeals Quality Measurement System (AQMS). With a 98.5 percent compliance rate, we do not believe any additional corrective actions are currently needed. The current procedures adequately assure

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compliance with the legal requirements of 26 U.S.C. §§ 6320 and 6330.

**Recommendation**

The Chief, Appeals, should:

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**Determination Letters and  
Summary Notices of  
Determination Did Not Document  
All the Issues Raised by  
Taxpayers**

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While the hearing officers substantially complied with the established Appeals function procedures, in 7 (10.8 percent) of the 59 CDP cases reviewed the hearing officers did not address in the determination letters and summary notices of determination all of the issues raised by the taxpayers.<sup>10</sup> We projected our findings in the 7 CDP cases to the total population of 4,362 CDP cases on the ACDS between May 1, 2003, and July 31, 2003. We estimated that similar documentation issues could exist in 470 CDP cases.

The Code of Federal Regulations<sup>11</sup> (C.F.R.) and Appeals function procedures state the determination letters and summary notices of determination must document that all issues raised by the taxpayer were considered during the CDP hearing. If the determination letters and summary notices of determination provided to taxpayers do not address all relevant issues, the taxpayers and any reviewing courts might not be able to easily determine that the laws and administrative procedures were followed and that the

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<sup>10</sup> Documentation was available to make a determination regarding whether all issues raised by taxpayers were documented in only 59 of the 65 cases sampled. To be conservative, the report projections and error rates were based on the 65 cases sampled assuming the 6 cases that did not contain the necessary documentation were correct (see Appendix IV).

<sup>11</sup> 26 C.F.R. 301.6330-1T(e)(A-E8).

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relevant facts presented by the taxpayers were considered. This could place an additional burden on taxpayers if they cannot determine the basis for the Appeals function's decision or whether all the issues were addressed.

Not adequately documenting and addressing a taxpayer's concerns could cause a CDP case to be remanded back to the Appeals function for reconsideration if the office of the Chief Counsel or reviewing courts cannot readily make a determination on the integrity of the appeal process. According to Appeals function records, in Fiscal Year 2002, 107 CDP cases were returned from the office of the Chief Counsel or the courts to the Appeals function for further development.

The hearing officers did ensure the determination letters and summary notices of determination contained other required information to address specific provisions of the law, including:

- .. Whether the IRS followed all the applicable rules and administrative procedures.
- .. Whether the assessment of the proposed collection action balanced efficient tax collection with the legitimate concern that any collection action be no more intrusive than necessary.
- .. Which court the taxpayer should petition if the taxpayer seeks judicial review of the Appeals function's determination (if applicable).
- .. Any relief given to the taxpayer.
- .. Actions required by the IRS or the taxpayer.

Appeals function management has established controls to help ensure the determination letter and summary notice of determination contain the required information. Appeals function procedures require that the Appeals Team Manager or leader review each proposed determination letter, summary notice of determination, and file to assure the correctness of the proposed action. Appeals Team Managers did review the seven CDP cases in which issues raised by the taxpayer were not addressed in the

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determination letter, but the managerial reviews did not identify the deficiency.

The AQMS is another control to provide Appeals function managers with data on the quality of their CDP hearing process. As part of their review, AQMS reviewers evaluate the administrative file and determine whether the hearing officers addressed all the issues raised by the taxpayers. From May 2003 to July 2003, the AQMS reviews did not identify any exceptions for this issue.

With the current compliance rate, we do not believe any additional corrective actions are needed. With the proper emphasis on the current guidelines and controls, the Appeals function can adequately assure compliance with the legal requirements of 26 U.S.C. §§ 6320 and 6330. Therefore, we are making no additional recommendations.

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**Appendix I**

**Detailed Objective, Scope, and Methodology**

The objective of this audit was to determine whether the Internal Revenue Service (IRS) complied with 26 United States Code (U.S.C.) Sections (§§) 6320 and 6330<sup>1</sup> when taxpayers exercised their right to appeal the filing of a lien or the intent to levy.

- I. To determine whether the IRS was in compliance with 26 U.S.C. §§ 6320 and 6330 and the IRS guidelines for Collection Due Process (CDP) cases resulting in the issuance of formal Appeals function CDP determination letters and summary notices of determination, we:
- A. Selected a statistical sample of 65 CDP cases closed from May 1, 2003, through July 31, 2003, from an extract of 4,362 CDP case inventory records controlled on the Appeals Centralized Database System (ACDS).<sup>2</sup> We performed limited tests to verify the accuracy of the ACDS extract data provided. We also compared a sample of records from the database extract to the ACDS database to ensure the information was complete and accurate.

For the purpose of projecting the sample results to the entire population, we used statistical sampling. We used attribute sampling and the following formula to calculate the sample size (n) for the CDP cases with determination letters and summary notices of determination:

$$n = (N(Z^2)p(1-p))/(N(E^2)+(Z^2)p(1-p)).$$

N = Population (4,362 CDP cases).  
Z = Desired Confidence Level (90 percent).\*  
p = Expected Error Rate (4 percent).\*\*  
E = Precision Level (3.99 percent).

\* To calculate sample size, used the standard deviation factor (1.645) for the 90 percent confidence level.

\*\* 4 percent was the error rate in the last audit.

- B. Reviewed the selected CDP cases to determine if the hearing officers complied with 26 U.S.C. §§ 6320 and 6330 and related procedures and if taxpayers' rights were protected.
- C. Discussed examples of the CDP cases that appeared to be potential violations with Appeals function personnel.

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<sup>1</sup> 26 U.S.C. §§ 6320 and 6330 (Supp. IV 1998).

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

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**Appendix II**

**Major Contributors to This Report**

Michael R. Phillips, Assistant Inspector General for Audit (Wage and Investment Income Programs)

Mary V. Baker, Director

James D. O'Hara, Audit Manager

Julia Tai, Senior Auditor

Nelva Blassingame, Auditor

Cindy J. Harris, Auditor

David Lowe, Auditor

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**Appendix III**

**Report Distribution List**

Commissioner C  
Office of the Commissioner – Attn: Chief of Staff C  
Deputy Commissioner for Services and Enforcement SE  
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 Management Controls OS:CFO:AR:M  
Audit Liaison: Chief, Appeals AP

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### Appendix IV

#### Outcome Measures

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

##### Type and Value of Outcome Measure:

- .. Taxpayer Rights and Entitlements – Potential; 67 Collection Due Process (CDP) cases in which hearing officers did not always follow the provision of the law (see page 3).
- .. Taxpayer Rights and Entitlements – Potential; 470 CDP cases in which the hearing officers did not always address all provisions of the law in the determination letter (see page 5).

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

From a nationwide statistically valid sample of 65 CDP<sup>1</sup> cases:

- .. We identified 1 (1.5 percent [1/65]) case in the 59 CDP cases we reviewed with evidence of the taxpayer's issues and concerns in which the hearing officer did not follow the provision of the law when conducting the CDP hearing. There were a total of 4,362 CDP cases on the Appeals Centralized Database System (ACDS) in which taxpayers were issued a determination letter or summary notice of determination from May 1, 2003, through July 31, 2003. Projected to the population, hearing officers may not have followed all provisions of the law in 67 CDP cases (1/65 x 4,362). We are 90 percent confident that between 1 and 177 taxpayers were improperly denied certain CDP rights.
- .. We identified 7 (10.8 percent [7/65]) cases in the 59 CDP cases we reviewed with evidence of the taxpayer's issues and concerns in which the hearing officers did not address all provisions of the law when conducting the CDP hearing. In particular, the determination letters and summary notices of determination did not address all of the issues raised by the taxpayers. There were a total of 4,362 CDP cases on the ACDS in which taxpayers were issued a determination letter and a summary notice of determination from May 1, 2003, through July 31, 2003. Projected to the population, hearing officers may not have addressed all provisions of the law in 470 CDP cases (7/65 x 4,362). We are 90 percent confident that between 193 and 747 taxpayers were improperly denied certain CDP rights.

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<sup>1</sup> The original sample size was 65 CDP cases. However, in six of those cases we could not assess the issues or concerns raised by the taxpayers, as the necessary documentation could not be provided. For the purpose of projecting, we considered the 6 cases to be correct and made our report projections based on the total sample of 65 CDP cases.

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**Appendix V**

**Synopsis of the Internal Revenue Service  
Collection Process, Lien and Levy Filing Procedures,  
and Collection Due Process**

The collection of unpaid tax begins with a series of letters (notices) sent to the taxpayer advising him or her of the debt and asking for payment of the delinquent tax. The Internal Revenue Service (IRS) computer systems are programmed to mail these notices when certain criteria are met. If the taxpayer does not respond to the notice, the account is transferred for either personal or telephone contact.

- .. The IRS employees who make personal (face-to-face) contact with taxpayers are called Revenue Officers and work in the IRS field offices. The computer system used in most of the field offices to track collection actions taken on taxpayer accounts is called the Integrated Collection System.
- .. The IRS employees who make only telephone contact with taxpayers are called Customer Service Representatives and work in call sites in the IRS Customer Service offices. The computer system used in the call sites to track collection actions taken on taxpayer accounts is called the Automated Collection System.

When contacts are made and the taxpayer still does not pay the tax liability, designated IRS employees are authorized to file a Notice of Federal Tax Lien (NFTL). In addition, the IRS has the authority to work directly with financial institutions and other parties to obtain funds owed to the taxpayer. The taking of money owed to a taxpayer by a third party is commonly referred to as a levy.

**Federal Tax Lien**

Liens protect the Federal Government's interest by attaching a claim to the taxpayer's assets for the amount of unpaid tax liability. The right to file an NFTL is created under 26 United States Code (U.S.C.) Section (§) 6321 (1994) when:

- .. The IRS has made an assessment and given the taxpayer notice of the assessment, stating the amount of the tax liability and demanding payment.
- .. The taxpayer has neglected or refused to pay the amount within 10 days after the notice and demand for payment.

The IRS is required to notify the taxpayer the first time an NFTL is filed for each tax period. It has to notify the taxpayer within 5 days after the lien notice filing. The taxpayer then has 30 days, after that 5-day period, to request a Collection Due Process (CDP) hearing with the Chief, Appeals.

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### **Levy**

A levy is a legal seizure of property to satisfy a tax debt. Levies differ from liens in that while a lien is a claim used as security for a tax debt, a levy actually takes the property to satisfy the tax debt. The IRS authority to work directly with financial institutions and other parties to obtain funds owed to taxpayers is provided under 26 U.S.C. § 6331 (1994 and Supp. IV 1998).

The IRS usually does not levy unless:

- .. It has made an assessment and given the taxpayer notice of the assessment, stating the amount of the tax liability and demanding payment.
- .. It has sent a Final Notice of Intent to Levy (Letter 1058) and a Notice of Your Right to a Hearing (levy notice) at least 30 days before the levy action. This 30-day period allows the taxpayer time to solve any problems created by the levy or to make other arrangements to pay.

For each tax period, the IRS is required to notify the taxpayer the first time it intends to collect a tax liability by taking the taxpayer's property or rights to property. It does this by sending the taxpayer a levy notice. The IRS cannot levy on or seize property within 30 days from the date this notice is mailed, given to the taxpayer, or left at the taxpayer's home or office. During that 30-day period, the taxpayer may request a CDP hearing with the Chief, Appeals.

There are two exceptions to the notice of intent to levy provision. The IRS may issue a levy without sending a notice or waiting 30 days when collection of the tax is in jeopardy. The IRS may also levy on a taxpayer's State tax refund without sending a notice or waiting 30 days. However, the taxpayer can request a CDP hearing after the levy action for both of these instances.

### **Collection Due Process**

The IRS is required under 26 U.S.C. §§ 6320 and 6330 (Supp. IV 1998) to notify taxpayers in writing that an NFTL has been filed and to let the taxpayers know of its intent to levy. If a taxpayer elects to appeal the lien or levy action, he or she must submit a request for a CDP hearing in writing within the time prescribed by the law.

Taxpayers are entitled to one CDP hearing per tax liability period for which an NFTL or intent to levy has been filed. A hearing officer with no prior involvement with the unpaid tax conducts the CDP hearing. However, at the taxpayer's discretion, this requirement may be waived.

Unless the IRS believes collection of the tax is in jeopardy, the IRS will postpone the levy action during the appeal process. In addition, under the CDP hearing process only, the IRS will also suspend the 10-year collection statute of limitations during the appeal process and until the determination is final.

## **Appeals Complied With the Provisions of the Law for the Collection Due Process**

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At the appeal, the taxpayer may raise any relevant issue related to the unpaid tax or the proposed levy, including:

- .. Spousal defenses.
- .. The appropriateness of collection actions.
- .. Other collection alternatives.
- .. The existence or amount of the tax but only if the taxpayer did not receive a notice of deficiency for that liability or did not have an opportunity to dispute the tax liability.

An issue may not be raised if the taxpayer participated meaningfully in any previous administrative or judicial proceeding in which the same issue was already raised and considered.

During the appeal, the hearing officer must:

- .. Obtain verification from the IRS that the requirements of any applicable law or administrative procedure have been met.
- .. Consider the specific issues raised by the taxpayer.
- .. Consider if the proposed collection action properly balances the need for efficient collection of taxes with any legitimate concern of the taxpayer that the proposed collection action is more intrusive than necessary.

At the conclusion of the CDP hearing, the Appeals function will provide a written document to the taxpayer informing him or her of the Appeals function's determination. For a timely filed CDP hearing request, the Appeals function will issue a CDP determination letter (Letter 3193-c) or Summary Notice of Determination, Waiver of Right to Judicial Review of a CDP determination, and Waiver of Suspension of Levy Action (Form 12257). The determination letter explains the Appeals function's findings and decisions, any relief given the taxpayer, and any actions the taxpayer and/or the IRS are required to take. The CDP determination letter informs the taxpayer that he or she may seek judicial review of an Appeals function determination in the Federal Tax Court or U.S. District Court by filing a petition or complaint in the appropriate court within 30 days of the date of the Appeals function determination. If the court determines the appeal was made to the incorrect court, the taxpayer has 30 days after the court's determination to file the appeal with the correct court. The Appeals function will retain jurisdiction over its determinations and how they are carried out. The taxpayer may also return to the Appeals function if circumstances change and affect the original determination.

The Form 12257 also explains the Appeals function's findings and decisions, but it confirms that the taxpayer agrees with the Appeals function determination, waives his or her rights to judicial review of the Appeals function determination, and waives the suspension of levy action. In all of the documents provided to the taxpayers, the hearing officer must demonstrate that he or she complied with all the requirements of 26 U.S.C. §§ 6320 and 6330.

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Appendix VI

Management's Response to the Draft Report



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

RECEIVED  
MAR 14 2004

March 5, 2004

MEMORANDUM FOR TREASURY INSPECTOR GENERAL FOR  
TAX ADMINISTRATION

FROM: David B. Robison *David B. Robison*  
Chief, Appeals

SUBJECT: Draft Audit Report – Appeals Complied With the  
Provisions of the Law for the Collection Due Process  
(Audit # 200340055)

I am pleased with your findings that Appeals is complying with the provisions of the law for Collection Due Process (CDP).

We have been working aggressively to improve our processing of CDP cases in a variety of ways: through training of employees not as familiar with Collection issues, through providing detailed IRM instructions, and through expansion of our web page examples and other contents.

We plan to emphasize the importance of discussing all the issues raised by the taxpayers in our next CPE training. Also, we are adding Form 12153, Request for Collection Due Process Hearing, to the list of forms that should be retained on closed CDP cases. While this was not one of your recommendations, we thought it appropriate to keep you apprised of our plans to improve the CDP process.

RECOMMENDATION 1

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CORRECTIVE ACTION(S)

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**IMPLEMENTATION DATE:**

Because we have pulled this case back and we have initiated steps to provide a correct hearing as you recommended, we consider this action implemented.

**RESPONSIBLE OFFICIAL(S):**

Director, Technical Services, Appeals

If you have any questions, please contact Jeff Allison, Director, Tax Policy & Procedures at 973-468-3217, or Cheryl Revier, Program Analyst, at (202) 694-1847.