

Status Update: The IRS Has Improved Training and Procedures to Account for Collection Statute Expiration Dates

RESPONSIBLE OFFICIALS

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DEFINITION OF PROBLEM

By statute, the IRS generally has ten years from the assessment of a tax to collect it before the statutory period expires, unless the taxpayer extends the period by waiver or a provision suspends the period.¹ At the urging of the National Taxpayer Advocate, the IRS:

- Has improved its training and tools for employees to account for the collection statute expiration dates (CSEDs) provided by law;
- Is developing new methods of calculating CSEDs; and
- Is attempting to resolve accounts with CSED waivers of more than six years, which is the current time limit on extensions.

TAS received 89 CSED cases in fiscal year (FY) 2012, a decline of 40 percent from FY 2011.² However, the Treasury Inspector General for Tax Administration (TIGTA) reviewed a statistically valid sample of accounts involved in IRS collection hearings for FY 2010 and 2011, and determined that over 20 percent of the taxpayer accounts subject to these hearings had an inaccurate CSED.³ Further, TAS reviewed a sample of income tax modules from 1995 tax periods that were unabated and unpaid, and determined that 18 percent contained inaccurate CSEDs.⁴ Although the number of TAS CSED cases declined in FY 2012, the constant rate of inaccurate CSEDs makes it imperative that the IRS improve its programming and procedures, and dedicate resources to a centralized CSED office to address systemic flaws.

¹ Taxpayers may extend the statute by agreement (waiver) in connection with an installment agreement or before releasing a levy after the ten year period. Internal Revenue Code (IRC) § 6502(a). Several code sections provide that the statute may be suspended. See, e.g., IRC §§ 6330(e); 6331(i) & (k); 6503.

² TAS, year to date receipts to 9/29/2012 by Primary Issue Code (PCIC) and Special Case Code for PCIC 175, CSED. TAS reported 148 cases for FY 2011. PCIC 175 ranked 91st for FY 2012.

³ TIGTA, Ref. No. 2012-10-077, *Additional Improvements Are Needed in the Office of Appeals Collection Due Process Program to Ensure Statutory Requirements Are Met 7* (July 26, 2012). The IRS Office of Appeals generally holds these Collection Due Process (CDP) hearings, under IRC § 6320 and § 6330, after a taxpayer requests a hearing in writing before an IRS levy or seizure of the taxpayer's assets, or after the IRS has filed its Notice of Federal Tax Lien in the public records for the collection of the taxpayer's liability.

⁴ IRS, Compliance Data Warehouse (CDW), Individual Master File and Accounts Receivable Dollar Inventory. The modules did have an income tax return filed by September 30, 1996, were not currently in litigation or subject to a pending offer in compromise, and did not have the liability transferred to another module. TAS identified 1,948 of these modules and selected a representative sample of 51 modules. From that sample, TAS recalculated the CSEDs for each module with the CSED calculator and determined that nine modules had miscalculated CSEDs yielding an error rate of 17.6 percent with a margin of plus or minus 8.7 percent at a 90 percent confidence level.

ANALYSIS OF PROBLEM

Background

Since 2004, the National Taxpayer Advocate has urged the IRS to correct CSEDs and its methods of calculating them to prevent unlawful collection actions and harm to taxpayers. Chief among the issues are:

- In the past, certain taxpayers entered into CSED extensions greater than six years, which exceeds present limits;⁵
- IRS employees need training and continuing education to identify and resolve CSED problems;
- The IRS needs to integrate and align its goals for CSED treatment and training in one centralized office to ensure consistency;
- IRS systems and tools to calculate CSEDs are not uniform and lack accuracy;⁶ and
- IRS processes to split joint spousal accounts may lead to incorrect CSEDs and possible over-collection.⁷

In response, the Small Business/Self-Employed (SB/SE) and Wage & Investment (W&I) Divisions have offered the following initiatives to address these problems.

TAS and SB/SE Are Addressing Taxpayer Accounts with Extensions Exceeding Current Limits.

SB/SE and TAS formed a workgroup to investigate and correct CSED extensions longer than six years.⁸ The group initially determined that 4,466 taxpayers held accounts with extensions exceeding the current limits. IRS Chief Counsel has opined that the IRS cannot “write off” these accounts because taxpayers unilaterally agreed to the extensions.⁹ The workgroup is investigating whether it can systemically cease collection and refund offsets of the accounts, or allow certain taxpayers to submit offers in compromise (OICs) to resolve

⁵ Under current rules, the length of the extension must be based on the time that it will take to make payments under a partial payment installment agreement (PPIA) and cannot exceed five years plus one year to provide for other administrative actions. Internal Revenue Manual (IRM) 5.14.2.1.3(3) (Mar. 11, 2011). Before November 1995, the IRS secured CSED extensions on any account and for any duration provided the CSED was open. IRM 53(11)(1) (Oct. 28, 1993); IRM 5331.1(12)(b)2 (Nov. 2, 1995). It was not uncommon for the CSED to be extended for 25 to 40 years.

⁶ National Taxpayer Advocate 2010 Annual Report to Congress 339-342 (Status Update: *The IRS's Handling of Collection Statute Expiration Dates Continues to Adversely Affect Taxpayers*); National Taxpayer Advocate, Taxpayer Advocate Directive 2010-3 (Jan. 20, 2010); National Taxpayer Advocate 2009 Annual Report to Congress 217-227 (Most Serious Problem: *IRS Policies and Procedures for Collection Statute Expiration Dates Adversely Affect Taxpayers*); National Taxpayer Advocate 2004 Annual Report to Congress 180-192 (Most Serious Problem: *Erroneous and Miscalculated Collection Statute Expiration Dates*).

⁷ The IRS manually splits certain joint accounts to track the CSED suspended for one spouse, who takes certain actions (e.g., requesting an offer in compromise (OIC), petitioning for bankruptcy) which suspends the CSED, when the other spouse does not. National Taxpayer Advocate 2009 Annual Report to Congress 275-76 (Most Serious Problem: *The IRS Mismanages Joint Filers' Separate Accounts*). Upon examining a sample of 3,105 Master File Tax (MFT) 31 modules (manually split spousal assessment accounts), TAS estimated that IRS systems reported erroneous CSEDs for approximately 1,100 modules (i.e., 35 percent) that arose when the IRS transferred account data from joint accounts to MFT 31 accounts.

⁸ The IRS generally provides a Form 900, *Tax Collection Waiver*, for taxpayers to extend the collection statute expiration dates (CSEDs) on their accounts.

⁹ IRS Office of Chief Counsel, Memorandum to Director, Collection Policy, SB/SE (Feb. 12, 2010).

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their accounts.¹⁰ By the end of 2012, IRS systems report that 2,026 taxpayers will hold accounts with these lengthy CSED extensions.¹¹ The workgroup has engaged the SB/SE Research function to further refine data on these accounts, including identifying taxpayers who have passed away before the CSED expired or have no financial ability to fully pay what they owe within the CSED.¹²

We Commend the IRS for its New CSED Training, But Additional Steps Are Needed to Make the Training Effective.

In April 2012, the IRS produced training for all of its Filing and Payment Compliance employees to:

- Identify transactions that carry their own CSEDs;
- Verify CSEDs for accuracy; and
- Adjust account modules for CSED expiration.¹³

The training manual says, “If an issue with the CSED date is identified, it must be reviewed and verified for accuracy.”¹⁴ The training addresses concerns that include referrals of cases with CSED issues, identifying and adjusting CSEDs on accounts with multiple CSEDs, and adjusting accounts to reflect the correct CSED.¹⁵ The IRS plans to conduct training at all of its campuses (processing centers) in FY 2013.¹⁶ The IRS also held a mandatory briefing in its FY 2012 continuing professional education (CPE) for campus employees, and included advanced training for certain employees.¹⁷

With the new training, the IRS has taken a step toward acknowledging the CSED problem. However, the IRS has removed a CSED-related attribute from quality review standards used by the Field Collection organization. The Embedded Quality (EQ) system provides a standard set of attributes that helps managers and national reviewers to identify trends, problem areas, training needs, and areas that need improvement. The national quality reviewers use the attributes to link overall employee performance to organizational goals.¹⁸ An EQ job aid issued in May 2011 included Attribute 611, which said managers should

¹⁰ TAS-SB/SE CSED Workgroup, *Memorandum re: Effective Tax Administration Offers In Compromise for Certain Taxpayers Under a Lengthy CSED Extension* (June 21, 2012).

¹¹ SB/SE, *CSED Database Version 2.5* (Mar. 29, 2011).

¹² TAS-SB/SE CSED Workgroup, *Memorandum re: CSED Research Project Deliverables* (July 12, 2012).

¹³ IRS, Training 43982-101, *Collection Statute Expiration Date (CSED) – Verification and Correction Instructor’s Guide* xii-xiv (Apr. 2012). The Filing and Payment Compliance function includes the Automated Collection System (ACS), Compliance Service Collection Operations (CSCO), ACS Support (ACSS) Operations and the W&I and SB/SE Field Compliance Services Sites. IRM 1.4.20 (Jan. 20, 2012).

¹⁴ IRS, Training 43982-101, *Collection Statute Expiration Date (CSED) – Verification and Correction Instructor’s Guide* A-4-3 (Apr. 2012).

¹⁵ *Id.* at C-3-3, C-4-3.

¹⁶ IRS response to TAS information request (Sept. 17, 2012).

¹⁷ *Id.*

¹⁸ See <http://mysbse.web.irs.gov/mgrsact/eq/default.aspx> (last visited July 10, 2012).

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review cases to “identify if the employee addressed statute issues (Assessment Statute Expiration Date /CSED) and followed statute procedures.”¹⁹

In April 2012, the EQ job aid omitted this attribute, and thus may have unintentionally de-emphasized quality review of CSED issues for frontline employees.²⁰ However, as part of a comprehensive review of all EQ attributes, the IRS determined that Attribute 611 was used infrequently by managers, because they often chose to review CSEDs through ENTITY, which is a case management information system that can report whether employees have reviewed CSEDs on an account.²¹ Even if ENTITY review shows that employees reviewed CSEDs, such a review does not guarantee that the CSEDs were correctly calculated. Thus, the National Taxpayer Advocate remains concerned that the IRS may not be using a consistent approach to training and reviewing employees who verify and correct CSEDs. The IRS needs a centralized office to promote consistency and preserve standards across units.

TAS’s Research of CSED Issues Has Revealed Additional Problems for Taxpayers Who Have Multiple Assessments for the Same Tax Year or Module.

TAS has continued to research CSED problems and has found the IRS does not adjust account modules with multiple assessments and CSEDs when the CSED expires for the earlier assessment.²² For example, an account module for one tax year may contain multiple entries assessing liability for tax, including assessments made when the taxpayer files a return, or when the IRS makes an audit adjustment a year or so later. Because the IRS’s Integrated Data Retrieval System (IDRS) cannot associate accruals, payments, or credits to a particular assessment, employees must manually calculate the CSED and adjust account modules that have multiple assessments. In many cases, the IRS does not adjust accounts upon the earlier CSED expiration, which may cause unlawful additional accruals, continuing collection actions, overstatement of accounts receivable, and posting of refund offsets to satisfy expired assessments.²³

On advice from TAS, W&I created a specialized Multiple CSED (MULTICSED) unit at the Kansas City Campus to develop a process to verify CSEDs and correct all taxpayer account modules with multiple CSEDs from the 1960s forward. The unit will adjust expired balances, post accruals, and issue refunds on non-statute barred credits. From February 23, 2012, through March 23, 2012, the MULTICSED unit reviewed and adjusted 77 tax modules, writing off over \$84,000.²⁴ The unit will also develop a MULTICSED transcript for

¹⁹ IRS, Document 12359, *Field Compliance Embedded Quality, Field Collection, Collection Field Function (CFF) Job Aid* (May 2011). Attribute 611 was intended to assist managers only and was not intended to aid in the national quality review for the CFF.

²⁰ IRS, Document 12359, *Field Compliance Embedded Quality, Field Collection (FC) Job Aid* (Apr. 2012).

²¹ IRS response to TAS information request (Sept. 17, 2012). The IRS noted that Attribute 611 was used in only 18.8 percent of cases reviewed in 2011, because managers chose instead to review the CSEDs through ENTITY to avoid duplicating work.

²² TAS, Systemic Advocacy Management System (SAMS) Project #10935, Executive Summary, CSEDs are Incorrect on Modules with Multiple Assessment Dates 5 (Apr. 5, 2012).

²³ *Id.* at 3-5.

²⁴ IRS response to TAS information request (Sept. 17, 2012). The unit did not issue any refunds or write off any credits barred for refund under IRC § 6511.

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employees to use when resolving accounts with multiple assessments. The scheduled release date for the transcript is January 2013.²⁵ In the interim, W&I issued guidance to accept TAS Operations Assistance Requests (OARs) to resolve MULTICSED account problems.²⁶ The National Taxpayer Advocate commends W&I for its efforts to correct these accounts.

Improved Tools and Systems Will Help the IRS Identify and Correct CSEDs.

CSED calculations involve adjustments incident to extensions agreed to by taxpayers or statutory provisions suspending CSEDs (*e.g.*, collection due process hearings, OIC processing, or bankruptcy).²⁷ The calculations are further complicated because the IRS accounted for joint filers on one account per tax module until 2002. The IRS has since developed a way to split spousal accounts when CSED adjustments affect only one spouse (*e.g.*, one spouse filing bankruptcy and Tax Court petitions, one spouse submitted an offer in compromise, etc.).²⁸ Through the advocacy of the National Taxpayer Advocate and TAS, the IRS has developed several approaches to these problems, described below.

The IRS established a cross-functional team, including TAS, to create a CSED correction tool. The CSED Calculator Project had its initial meeting in late August 2010 to develop a spreadsheet-based calculator to help employees determine correct CSEDs on accounts.²⁹ The team developed a CSED calculator (CCalc), which was released to employees in September 2012.³⁰

Moreover, the National Taxpayer Advocate is pleased by the progress of the new Customer Account Data Engine 2 (CADE 2) database in resolving some of the issues regarding split spousal accounts. CADE 2 will associate taxpayer obligations with specific individuals, which will break the previous joint spousal model and should relieve some of the burden on taxpayers caused by divorce or separation of spousal associations in prior filings affecting CSEDs.³¹

The IRS anticipates that the next stage of CADE 2 implementation, if appropriately funded, will systemically resolve most CSED problems by January 2014.³² The National Taxpayer Advocate will continue to advocate for taxpayers who need CSED corrections and resolution of other CSED issues until the IRS improves its new tools and systems. Further, the

²⁵ IRM 5.19.10.4.7 (Oct. 15, 2012).

²⁶ IRM 5.19.10.4 (Oct. 15, 2012).

²⁷ IRC § 6330(e); IRC § 6331(k)(3); IRC § 6503(h).

²⁸ National Taxpayer Advocate 2009 Annual Report to Congress 273.

²⁹ SB/SE, CSED Calculator (CCalc) – MS Excel Based Project Definition Form (approved Aug. 20, 2010).

³⁰ See <http://mysbse.web.irs.gov/Collection/toolsprocesses/cscedcalculator/default.aspx> (last visited Sept. 26, 2012).

³¹ CADE 2 Program Management Office response to TAS information request (Aug. 31, 2010).

³² IRS response to TAS information request (Sept. 17, 2012). The CADE 2 Program Management Office is working with SB/SE on a proposal to change the method of applying payments on accounts with CSED issues. CADE 2 Program Management Office response to TAS information request (Aug. 31, 2010). See <http://it.web.irs.gov/CADE2/> (last visited July 11, 2012).

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National Taxpayer Advocate believes the IRS needs a central oversight office to oversee the CSED calculator and the CADE 2 CSED implementation to correct CSEDs once and for all.

CONCLUSION

The National Taxpayer Advocate is pleased with the IRS's progress in developing tools, training, and systems to resolve CSED issues. However, the IRS operating divisions' piecemeal approach may not be uniform or consistent, due to a lack of centralized oversight of CSED treatment and training.

The National Taxpayer Advocate recommends that the IRS take the following actions:

1. Coordinate its CSED training and case reviews to reinforce and reward the verification and correction of CSEDs.
2. Organize a centralized CSED office to refine training, create and maintain CSED tools, and oversee programs such as the MULTICSED unit.