



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.19.8

MAY 3, 2023

EFFECTIVE DATE

(05-03-2023)

PURPOSE

- (1) This transmits a revision to IRM 5.19.8, Liability Collection, Collection Appeal Rights.

MATERIAL CHANGES

- (1) Editorial changes made throughout to update references, terminology; correct formatting; revise wording for clarity; update website addresses and to comply with current writing standards.
- (2) Incorporated changes from IPU 20U0791 issued 07-15-2020 including:
 1. IRM 5.19.8.4.2(1) and (8) Revised to reflect changes for determining timeliness.
 2. IRM 5.19.8.4.2(4) and (6) Re-worded to increase clarity.
 3. IRM 5.19.8.4.2.2(1) Inserted note that it's not required to perfect for missing signature date.
 4. IRM 5.19.8.4.3.1(2) Added new activity code for STD cases.
 5. IRM 5.19.8.4.7.1(3)(k) Revised second sentence to reflect changes regarding determining timeliness.
 6. IRM 5.19.8.4.7.5(3) Revised second sentence to reflect changes regarding date to be used for Stage 1 date.
 7. IRM 5.19.8.4.9(3) New paragraph allowing option to use letter 4473C or phone call to notify taxpayer when forwarding case to Appeals.
 8. IRM 5.19.8.4.10(4)(e) Second note re-worded to reflect changes for determining timeliness.
 9. IRM 5.19.8.4.16.3.1(2) Second table added state AZ to sixth row.
- (3) Incorporated changes from IPU 21U0338 issued 03-04-2021 including:
 1. IRM 5.19.8.4.2.2 Inserted new (3) to input follow-up days.
 2. IRM 5.19.8.4.7.5(1)(b) and (3) Note: Changed CDPTS input requirement from 5 workdays to 10 workdays.
 3. IRM 5.19.8.4.9.2 Inserted new (4) designating use of OFP code 810-64500.
- (4) IPU 21U0790 issued 06-01-2021 was a duplicate of IPU 21U0338 content issued 03-04-2021.
- (5) Incorporated changes from IPU 21U0797 issued 06-02-2021 including:
 1. IRM 5.19.8.4.7.5(4) Third bullet: Changed to notate on AMS the IRS and ACSS received dates.
 2. IRM 5.19.8.4.7.5(15) Added 6th bullet to require notating on AMS the reason if processing a case exceeds 90 days.
 3. IRM 5.19.8.4.9.1(1) Changed to indicate that Appeals CDP received and closed reports are posted on the Business Objects Enterprise (BOE). Note added in table to indicate Form 3210 is only for hard copy cases.
 4. IRM 5.19.8.4.9.1(2) Changed to indicate transition to CDP paperless process.
 5. IRM 5.19.8.6(1) Updated link to the Passport Program.
- (6) Incorporated changes from IPU 22U0274 issued 02-15-2022 including:
 1. IRM 5.19.8.4.2 Inserted new (2) to describe the CDP paperless process.
 2. IRM 5.19.8.4.3.1(6) Specified the AMS history and ACS history code for STDs. Changed initial STD follow-up from 10 to 15 days.

3. IRM 5.19.8.4.7(2) Deleted history sheet, specified use of letter 4474C; (3) and (4) Specified use of letter 3884C; (6) Specified time frame to forward case to RO.
4. IRM 5.19.8.4.9(1) Added instructions on uploading paperless cases to Appeals; (6) Deleted reference to the CDP Certified Mail System; added note that case file tabs are no longer needed.
5. IRM 5.19.8.4.9(5) Inserted caution note regarding Form 12153B narratives.
6. IRM 5.19.8.4.9(6) Deleted reference to the CDP Certified Mail System.
- (7) Incorporated changes from IPU 22U0568 issued 04-29-2022 including:
 1. IRM 5.19.8.4.16.3.1(2) Status 22 Table: Added International to Philadelphia location; corrected the Kentucky abbreviation; Non-Status 22 Table: in third row, added Mississippi abbreviation; sixth row added Wyoming abbreviation.
- (8) Incorporated changes from IPU 22U0806 issued 07-18-2022 revalidating changes issued with IPU 20U0791 issued 07-15-2020 including:
 1. IRM 5.19.8.4.7.1(3)(k) Revised second sentence to reflect changes regarding determining timeliness.
 2. IRM 5.19.8.4.10(4)(e) second note: Re-worded to reflect changes regarding determining timeliness.
- (9) Incorporated changes from IPU 22U0936 issued 09-07-2022 including:
 1. IRM 5.19.8.4.7.5(6) Clarified days as calendar days and deleted third bullet allowing 15 additional days for taxpayer response.
- (10) Incorporated changes from IPU 23U0391 issued 03-14-2023 revalidating changes from IPU 21U0338 issued 03-04-2021 including:
 1. IRM 5.19.8.4.2.2 Inserted new (3) to input follow-up days.
- (11) IRM 5.19.8.1 Changed program owner from Employment Tax to Campus Tax Policy in (4).
- (12) IRM 5.19.8.1.1 Updated with the revised Taxpayer Bill of Rights (TBOR) language.
- (13) IRM 5.19.8.1.3 Changed program owner from Employment Tax to Campus Tax Policy in (2).
- (14) IRM 5.19.8.1.4 Updated to indicate the current reports.
- (15) IRM 5.19.8.1.6 Deleted acronym CDP-CMS, added CMR (Certified Mail Repository) and DUT (Document Upload Tool).
- (16) IRM 5.19.8.1.7 Deleted information about the CDP-CMS 2007 Data SharePoint because that site has been retired. Added reference to IRM 5.19.6 ACS Support as an additional related resource.
- (17) IRM 5.19.8.1.7(3) Deleted first sentence from paragraph for clarity.
- (18) IRM 5.19.8.4.2 (11) Replaced reference to the CDP-CMS system because it has been retired, with the Certified Mail Repository (CMR).
- (19) IRM 5.19.8.4.2.2 New (10) to included the option for taxpayer to respond using Eefax or DUT.
- (20) IRM 5.19.8.4.3(9) Added DUT as an option for taxpayer to request an EH.
- (21) IRM 5.19.8.4.3.1(2) Replaced single table with three tables for 508 compliance and increased clarity.
- (22) IRM 5.19.8.4.3.1(4) Deleted instructions for Efaxing STDs to Appeals. Added instructions for sending STDs to Appeals using Appeals Electronic Case Receipts (ECR) page.

- (23) IRM 5.19.8.4.3.2 New (4) to included the option for taxpayer to respond using Eefax or DUT. Re-numbered the following paragraphs.
- (24) IRM 5.19.8.4.5(2) table, Eliminated merged cells in first column for increased clarity and 508 compliance.
- (25) IRM 5.19.8.4.7(2) and (3) Re-worded for greater clarity.
- (26) IRM 5.19.8.4.7.1(3)(c) Deleted reference to the CDP-CMS system. Indicated use of Control-D system to obtain a copy of a notice.
- (27) IRM 5.19.8.4.7.1.1(3) Deleted paragraph regarding CDP-CMS 2007 Data SharePoint because the site has been retired.
- (28) IRM 5.19.8.4.7.2(1)(b) Deleted reference to the CDP-Certified Mail System.
- (29) IRM 5.19.8.4.7.3(1) Included the option for taxpayer to respond using Eefax or DUT.
- (30) IRM 5.19.8.4.7.4(1) Included the option for taxpayer to respond using Eefax or DUT.
- (31) IRM 5.19.8.4.7.5(2) Is now ACS Actions. Case Assignment is re-numbered to (4).
- (32) IRM 5.19.8.4.7.5(3) Deleted third bullet. Added instructions on assigning cases to the unassigned queue. Added table listing campus unassigned queue numbers.
- (33) IRM 5.19.8.4.7.5(4) Is now Case Assignment. Added new Activity Code: CDPCHKSTD to the table. ACS Actions is re-numbered to (2).
- (34) IRM 5.19.8.4.7.5(5) Inserted new paragraph on Control Base. Re-numbered Case Actions paragraph to (6).
- (35) IRM 5.19.8.4.7.5(8) Included the option for taxpayer to respond using Eefax or DUT.
- (36) IRM 5.19.8.4.7.9(2) and (3) Removed supporting documentation requirement for ID Theft claims.
- (37) IRM 5.19.8.4.8(2) Specified use of letter 4474C when requesting a CDP withdrawal. Clarified days as calendar days.
- (38) IRM 5.19.8.4.9 Updated the link to the Electronic Case Receipts page.
- (39) IRM 5.19.8.4.9.1 Edited for greater clarity. Deleted references to stage 4 of CDPTS.
- (40) IRM 5.19.8.4.10 Added new paragraph (8) to reference mirroring instructions.
- (41) IRM 5.19.8.4.12.1 Deleted the description of Eefaxing. Specified use of letter 3884C if phone contact is unsuccessful.
- (42) IRM 5.19.8.4.13(3)(d) Updated information to indicate that Appeals maintains electronic copies of cases on ACDS.
- (43) IRM 5.19.8.4.14(3) Re-inserted Kansas City.
- (44) IRM 5.19.8.4.14(8) Re-organized information into bullet format.
- (45) IRM 5.19.8.4.16.3(5) Updated instructions to include the steps for forwarding a CAP case to Appeals using the Electronic Case Receipts (ECR) page.
- (46) IRM 5.19.8.4.16.3.1(2) Updated the Status 22 table third row with address correction for Florence, KY and in fifth row changed ACSS location from Fresno, CA to Kansas City, MO. Also updated the

Non-Status 22 table fifth row by changing the CSCO location from Memphis, TN to Ogden, UT and in eighth row by changing the CSCO location from Philadelphia, PA to Kansas City, MO.

- (47) IRM 5.19.8.4.16.4(8) Updated instructions for CAP cases when issues indicated on Form 9423 that don't qualify as CAP. Deleted instruction to send the documents to files.
- (48) IRM 5.19.8.4.16.6(1) Updated instructions to indicate CAP cases will be forwarded to Appeals using the ECR page.
- (49) IRM 5.19.8.4.16.6(5) Deleted instruction to send CAP documents to files.

EFFECT ON OTHER DOCUMENTS

IRM 5.19.8, dated December 17, 2019 is superseded. This IRM incorporates the following IRM Procedural Updates (IPU): 20U0791, 21U0338, 21U0790, 21U0797, 22U0274, 22U0568, 22U0806, 22U0936 and 23U0391 issued 07-15-2020 through 03-14-2023.

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5.19.8
Collection Appeal Rights

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5.19.8.1
(05-03-2023)
Program Scope and Objectives

- (1) **Purpose:** This chapter provides procedures for processing Collection Due Process (CDP) or Equivalent Hearing (EH) Requests and Collection Appeals Program (CAP) requests to assist the taxpayer with a resolution, or when that is not possible, to prepare and forward the case to Appeals.
- (2) **Audience:** These instructions are intended for campus tax examiners or collection representatives in the campus function's Automated Collection System (ACS), ACS Support (ACSS) and CSCO.
- (3) **Policy Owner:** Director, Collection Policy, SBSE.
- (4) **Program Owner:** SBSE Collection Policy Campus Tax Policy.
- (5) **Primary Stakeholders:** Campus operations: ACS, ACS Support, CSCO, and Appeals.
- (6) **Program Goals:** The right to an appeal is one of the taxpayer's rights under the Taxpayer Bill of Rights. The CDP, EH and CAP processes provide a mechanism for taxpayers to appeal collection actions proposed or already taken by the Service. By following the procedures in this IRM, employees will be able to appropriately handle taxpayers appeals of collection actions.

5.19.8.1.1
(05-03-2023)
Background

- (1) The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR see: <https://www.irs.gov/taxpayer-bill-of-rights>.

5.19.8.1.2
(03-16-2018)
Authority

- (1) The authorities relating to this section include:
 - IRC 6320 and CFR 301.6320-1, - the right to appeal the filing of a Notice of Federal Tax Lien.
 - IRC 6330 and CFR 301.6330-1, - the right to appeal before or after levy action is taken, depending on the type of levy.
 - IRC 7122(e) - the right to appeal the Service's rejection of an installment agreement request.
 - Treas. Reg. Section 301.6159 - 1(e)(5), and IRC 6159(e) - the right to appeal proposed modification or actual modification, and to appeal proposed termination or actual termination of an installment agreement.
 - Taxpayer Bill of Rights, IRC 7803(a)(3).

5.19.8.1.3
(05-03-2023)
Responsibilities

- (1) The Director, Collection Policy, SBSE, is responsible for all policies within the Collection Appeal Rights program.
- (2) Campus Tax Policy is responsible for development and delivery of policies. This function coordinates with the National Program Manager, Collection Campus Operations, since the actual operations are located within the campus and ACS call-sites.
- (3) Campus Operations managers of ACS Support CDP Units, CSCO and ACS Call-Site managers are responsible for ensuring that the IRM procedures are followed.

5.19.8.1.4
(05-03-2023)
**Program Management
and Review**

- (4) Tax Examiners (TE) in the campuses that work CDP/EH cases and CAP cases and Collection Representatives in the ACS Call-Sites that work CAP cases are responsible for following the IRM procedures.

- (1) All CDP/EH cases worked are reviewed by TE leads and approved by managers. The four campuses that work CDP/EH cases (Philadelphia, Cincinnati, Kansas City, Fresno) each have a CDP Coordinator that reviews work, monitors, resolves issues and elevates problems to the HQ CDP analyst for resolution.
- (2) Monthly CDP and CAP reports of volumes and inventory are provided by SBSE Performance, Planning & Analysis.
- (3) Weekly Accounts Management Services (AMS) reports of CDP inventory and overage percentages are provided by SBSE Performance, Planning & Analysis.
- (4) Program reviews are performed by Collection Policy to determine whether procedures are being followed.
- (5) Operational reviews are performed by senior management and executives.
- (6) Ongoing HQ analyst contact with the campus operations to monitor the collection appeals program and resolve problems.
- (7) Campus managers use the Embedded Quality Review System (EQRS) to perform quality reviews on CDP work.
- (8) HQ analysts use the National Quality Review System (NQRS) to examine CDP quality statistics.
- (9) Quality reviews are performed by the NQRS staff.

5.19.8.1.5
(03-16-2018)
Program Controls

- (1) The Collection Due Process Tracking System (CDPTS) is used by the campus CDP Units to keep track of the disposition of CDP/EH requests received.
- (2) The HQ analyst with the Appeals organization provides feedback when issues arise with CDP/EH front-end cases. Similarly, the HQ Collection CDP analyst will alert the Appeals analyst of any problems with CDP back-end cases.
- (3) Appeals coordinates with Collection's CDP analysts when problems with CDP processing are identified.
- (4) Monthly CDP and CAP reports of volumes and inventory provided by SBSE Performance, Planning & Analysis are used by HQ ET to monitor the status of volume and inventory levels by enterprise, business operating division (BOD), and campus ACS Support.
- (5) Weekly ACS Support program volumes and inventory overaged reports provided to HQ ET by Campus Collection Operations HQ staff are used to monitor the percentage of overaged volume.
- (6) Accounts Management Services (AMS) reports of CDP inventory are available to the HQ ET analyst to determine the average days in inventory and the overage percentage.

5.19.8.1.6
(05-03-2023)
**Terms/Definitions/
Acronyms**

- (1) The most common terms and acronyms associated with this program are as follows:

| Acronym | Definition |
|---------|-----------------------------------|
| CDP | Collection Due Process |
| EH | Equivalent Hearing |
| CAP | Collection Appeals Program |
| CDPTS | CDP Tracking System |
| CMR | Certified Mail Repository |
| DUT | Document Upload Tool |
| STD | Separate Timeliness Determination |

5.19.8.1.7
(05-03-2023)
Related Resources

- (1) **ACS CDP Coordinator finder:** a SERP website used to determine the appropriate CDP Coordinator based on the state location of the taxpayer. It is found under the Who/Where tab: *ACS CDP Coordinators*.
- (2) **Taxpayer Bill of Rights (TBOR):** This program provides a mechanism for taxpayers to appeal collection actions proposed or already taken by the Service. It gives the taxpayer the opportunity to work towards a resolution with Collection or to obtain a determination or decision on the issue from Appeals. For Additional information about TBOR, see: *Taxpayer Bill of Rights*.
- (3) **MySB/SE intranet website:** For general information about the Collection Due Process (CDP), see: *Collection Due Process*.
- (4) IRM 5.19.6, ACS Support.

5.19.8.2
(03-16-2018)
**Collection Appeal Rights
Process**

- (1) Taxpayers must be kept informed of their rights to appeal collection actions. The following publications and forms explain appeal rights and provisions:
- Publication 594, The IRS Collection Process — Addresses general appeal provisions.
 - Publication 1660, Collection Appeal Rights — Provides detailed information regarding Collection appeal rights and procedures under Collection Due Process (CDP) and the Collection Appeals Program (CAP).
 - Form 12153, Request for Collection Due Process or Equivalent Hearing — Used to request a CDP or Equivalent Hearing.
- (2) The taxpayer is entitled to only one hearing for each taxable period under IRC 6320 and 6330. A second notice is required if the IRS assesses an additional liability for the same tax period after the original levy notice was issued.
- Note:** An additional CDP notice is not required for new assessments of interest and penalty accruals for tax previously included on a CDP notice.
- (3) A hearing can be held by Appeals at the same time on a notice of lien and a levy notice. This would happen if the taxpayer receives a subsequent notice after a hearing is requested on the first notice.

- (4) Statutory provisions under IRC 6320 and 6330 require the Service to send taxpayers written notification of their **CDP** appeal rights under the following circumstances.
- We **filed** a Federal Tax Lien and issued a Notice of Federal Tax Lien Filing and Notice of Your Right to a Hearing under IRC 6320.
 - We **intend to levy** and issue a Final Notice of Intent to Levy and Notice of Your Right to a Hearing under IRC 6330.
- Note:** The Notice of Jeopardy Levy and Right of Appeal and a Notice of Levy on Your State Tax Refund - Notice of Your Right to a Hearing, the Disqualified Employment Tax Levy (DETL), and Letter 1058-F, Post Levy Federal Contractor Collection Due Process, advises the taxpayer of the right to a hearing, **after** the levy.
- Taxpayers entitled to request an appeal under the CDP provisions need to be advised of the requirements and time frames for filing an appeal. It is important to inform taxpayers that your discussions do not suspend the running of (or otherwise extend) the 30-day period during which taxpayers may request a CDP hearing.
- (5) Advise taxpayers of their right to appeal prior to proposed or planned actions under the Collection Appeals Program (**CAP**) in the following situations:

| Advise taxpayers: | Situations: |
|--|---|
| You must advise taxpayers of their right to appeal under CAP when: | <ul style="list-style-type: none"> • An installment agreement is rejected. • An installment agreement is proposed to be terminated or is actually terminated. • An installment agreement is modified or proposed to be modified. <p>Note: CAP appeal requests involving these actions do not require a managerial conference.</p> |

| Advise taxpayers: | Situations: |
|--|---|
| You must advise taxpayers of their right to appeal under CAP when: | <ul style="list-style-type: none"> • A NFTL will be or has been filed. • A levy will be or has been served. • Property will be or has been seized. • The request to discharge property from a lien has been denied. • The request for the subordination of a lien has been denied. • The issuance of a certificate of non-attachment of a lien has been denied. • The request for withdrawal of a NFTL has been denied. • A request for return of property under IRC 6343(d) has been rejected. • Third-party property owner's claim for return of wrongfully levied property under IRC 6343(b) has been rejected. • Filing of notice of lien against an alter-ego or nominee's property. <p>Note: For these actions the taxpayer must first discuss with the employee's manager before the CAP appeal request can be forwarded to Appeals IRM 5.19.8.4.16, Collection Appeals Program (CAP) Procedures.</p> |

Taxpayers should be advised of their appeal rights prior to proposed or planned actions.

Note: Prior to any proposed or planned collection action, a notice such as the CP 523 is sent to the taxpayer which includes information on appeal rights.

- (6) Employees needing guidance regarding taxpayer threats, intimidation, or assault shall refer to IRM 25.4, Employee Protection, for information on the Potentially Dangerous Taxpayer (PDT) and Caution upon Contact (CAU) programs.

5.19.8.2.1
(03-16-2018)
**Collection Appeal Rights
Overview**

- (1) Taxpayers may appeal many IRS collection actions. There are various appeal procedures available to them. The two main procedures are **Collection Due Process (CDP)** and **Collection Appeals Program (CAP)**. This section discusses the rights taxpayers have to appeal collection actions under CDP and CAP.
- (2) **Collection Due Process (CDP)** rights are provided by statute:
- IRC 6320 – Gives the taxpayer the right to appeal the filing of a Notice of Federal Tax Lien.
 - IRC 6330 — Gives the taxpayer the right to appeal before or after levy action is taken, depending on the type of levy.
- (3) **Collection Appeals Program (CAP)** rights are provided by statute and administratively:

| Authority by | Appeal Rights |
|-----------------|---|
| Statute: | <ul style="list-style-type: none"> • IRC 7122(e) - Gives the taxpayer the right to appeal the Service's rejection of an installment agreement (IA) request. • Treas. Reg. section 301.6159-1(e)(5) - Gives the taxpayer the right to appeal a proposed or actual modification of an IA or a proposed or actual terminations of an IA. <p>Note: The modification of an installment agreement can involve a proposal by the IRS or the taxpayer.</p> |
| Administrative: | <p>Taxpayers have the administrative right to appeal -</p> <ul style="list-style-type: none"> • Before or after the filing of a Notice of Federal Tax Lien (NFTL). • Before or after the serving of a notice of levy. • Before or after the seizure of property. • After the denial of a request for property to be discharged from a lien. • After the denial of the subordination of a lien. • After the denial of the withdrawal of a NFTL. • After the denial of the issuance of a certificate of non-attachment. • After disallowance of a taxpayer's request for return of levied property under IRC 6343(d). • After disallowance of third-party property owner's claim for return of wrongfully levied property under IRC 6343(b). • Filing of notice of lien against an alter ego or nominee's property. |

(4) Taxpayers have additional appeal rights, including those related to:

- Trust Fund Recovery Penalties, see IRM 5.7.6.1.3, Appealing the Proposed Assessment.
- Rejected Offers in Compromise, see IRM 5.8.7.7.5 , Rejection Appealed.
- Penalties, see IRM 20.1, Penalty Handbook.
- Audit Reconsideration, see IRM 4.13.6, Appeals

Note: Taxpayers should follow the protest requirements listed in Publication 5. Taxpayers should also follow the instructions in the letter that denies their abatement.

5.19.8.2.1.1
(12-17-2019)
**Collection Appeal Rights
and the Shared
Responsibility Payment**

- (1) The individual shared responsibility provision in IRC 5000A calls for each individual to have minimum essential health coverage (known as minimum essential coverage (MEC)) for each month, qualify for a coverage exemption, or make a shared responsibility payment (SRP) when filing their Federal income tax return. The amount of any payment owed takes into account the number of months in a given year an individual is without minimum essential

coverage or a coverage exemption. MFT 35 (or the mirrored assessment MFT 65), Tax class 2 File source 1 is the IMF (Individual Master File) MFT for the Individual Shared Responsibility Payment. For years after 2018, the SRP was reduced to \$0.

- (2) The SRP balance due (MFT 35) (or the mirrored assessment MFT 65) is not subject to penalties or the filing of a Notice of Federal Tax lien, a levy on a taxpayer's property or the failure to pay penalty. The Service will not levy on a taxpayer's property for failure to pay the SRP. Interest will continue to accrue until the total SRP is paid. The Service may offset federal tax refunds to the SRP amount until it is paid in full. The CDP/EH program is not available since it is not subject to final demand, filing of a notice of Federal Tax Lien or levy processes. However, if a taxpayer's CDP/EH request includes other modules which can be resolved with an installment agreement, the Service will seek to include the SRP. Guidance regarding processing the MFT and installment agreements can be found in IRM 5.19.1.6.4.22, IA Considerations for Individual SRP Modules and IRM 5.19.1.6.4.22.1, CSCO IA Considerations for Individual SRP Modules Balance Due. Proposed or existing installment agreements are eligible for CAP appeal consideration prior to rejection of a proposed installment agreement (default) or termination of an existing installment agreement.

Note: These agreements may include MFT 35 liabilities.

- (3) If a taxpayer's balance due is only the MFT 35 module (stand-alone) and is not paid after the third notice (CP 503), it will go into "recess" status (no collection action) until paid. Additional information regarding the recess of stand-alone modules can be found in IRM 5.19.17.2.13, Recessed Individual Shared Responsibility Payment (SRP) Modules.

5.19.8.2.1.2
(03-16-2018)

**Collection Appeal Rights
and the Employer
Shared Responsibility
Provision (ESRP)**

- (1) Beginning calendar year 2015 and after, employers employing an average of 50 full-time employees or combination of full-time and full-time equivalent employees on business days in the prior year (i.e., number of employees during 2014 is used to determine the liability for calendar year 2015) and will be subject to the Employer Shared Responsibility provisions under section 4980H of the IRC.
- (2) ESRP assessments may be included when issuing a levy or filing of a Notice of Federal Tax Lien when an employer fails to pay the ESRP imposed by IRC 4980H. A CDP notice issued under IRC 6320 or IRC 6330 entitle the employer to request a CDP hearing.
- (3) The ESRP assessments are processed on the Business Master File (BMF) under MFT 43.
- (4) Additional information may be found in IRM 5.19.4.2.2, Affordable Care Act (ACA) - Employer Shared Responsibility Provision (ESRP) 4980H, IRM 20.2.11.14, Affordable Care Act (ACA), and, IRM 21.3.1.8.3, Employer Shared Responsibility (ESRP) Notices.

5.19.8.3
(08-05-2016)

**Informing Taxpayers of
Their CDP Appeal Rights**

- (1) Taxpayers are informed of their CDP appeal rights by one of the following final notices.

- (2) **LT11 or Letter 1058**, Notice of Intent to Levy and Notice of Your Right to a Hearing, is sent certified mail, return receipt requested, but can also be given in person or left at the dwelling or usual place of business, to notify taxpayers of their right to a CDP hearing. The following enclosures are included:
- Form 12153, Request for a Collection Due Process or Equivalent Hearing
 - Publication 594, The IRS Collection Process
 - Publication 1660, Collection Appeal Rights
 - Envelope
- (3) **Letter 3172**, Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320 is issued to notify taxpayers of their right to a CDP hearing. This notice will be given in person, left at the dwelling or usual place of business, or sent by certified mail, to the last known address. The following enclosures are included:
- Publication 1660, Collection Appeal Rights
 - Publication 1450, Instructions on Requesting a Certificate of Release of Federal Tax Lien
 - Form 668 (Y), (C), Copy of Notice of Federal Tax Lien
 - Form 12153, Request for Collection Due Process or Equivalent Hearing
- (4) **LT 73 or Letter 1058e**, Notice of Disqualified Employment Tax Levy, is sent **after** the account is levied. It is sent certified mail, return receipt requested, but can also be given in person or left at the dwelling or usual place of business, to notify taxpayers of their right to a CDP hearing. It applies to BMF accounts, MFT 01,10,11,14 or 16. The following enclosures are included:
- Form 12153, Request for a Collection Due Process or Equivalent Hearing
 - Publication 594, The IRS Collection Process
 - Publication 1660, Collection Appeal Rights
 - Envelope
- (5) Letter 1058-F, Post Levy Federal Contractor Collection Due Process
- (6) **CPs 92/242**, State Income Tax Levy Program (SITLP), are sent **after** the tax refund has been levied. They are issued to inform the taxpayer that the levy proceeds have been received from the state. These notices are sent by certified mail and include Form 12153 and Pubs 594/1660 (see IRM 5.19.9.3, State Income Tax Levy Program).
- (7) **CPs 90/297**, Federal Payment Levy Program (FPLP), are final notices, Notice of Intent to Levy and Notice of Your Right to a Hearing, and are sent systemically from Master File. These notices are sent certified mail, return receipt requested, and include Form 12153 and Pubs 594/1660 (see IRM 5.19.9.4.1, What is FPLP?).
- (8) **CP 77**, Alaska Permanent Fund Dividend Program (AKPFD), is a final notice, Notice of Intent to Levy and Notice of Your Right to a Hearing, and is sent systemically from Master File. The AKPFD is an automated levy program between the IRS and the State of Alaska. These notices are sent by certified mail, return receipt requested, and include Form 12153 and Pubs 594/1660. (see IRM 5.19.9.5.1, What is the AKPFD?).

Note: Registered mail is used only if the taxpayer resides outside the United States. There is no international certified mail.

5.19.8.4
(12-17-2019)
**Collection Appeal Rights
Program**

- (1) Collection Appeal Rights procedures include:
 - Collection Due Process (CDP)
 - Collection Appeals Process (CAP)
- (2) The following subsections provide the procedures for ACS / ACS Support CDP case workers and CAP Coordinators to follow for the Collection Due Process (CDP) Appeal Under IRC 6320 and 6330 and the Collection Appeals Program (CAP).
- (3) The use of Integrated Automation Technologies (IAT) tools is encouraged as appropriate. See IRM 5.19.6.4.1, Mandated IAT Tools for ACS Support, and IRM 5.19.1.2.8, Mandated IAT Tools for information.

5.19.8.4.1
(12-17-2019)
**Notice of Collection Due
Process (CDP) Appeal
Rights**

- (1) The CDP appeal provisions give taxpayers an opportunity for an independent review by Appeals, to ensure that the proposed levy or notice of lien filing is warranted. Service employees will attempt contact with the taxpayer and seek to use alternative methods to resolve the case, such as an installment agreement or offer-in-compromise, before levy or lien filing is considered.
- (2) **IRC 6320** gives taxpayers the right to request a hearing during the **30 calendar-day period that begins on the first day after five business days after the filing of a Notice of Federal Tax Lien (NFTL)**. Notice of this hearing must be given in person, left at the dwelling or usual place of business, or sent by certified mail to the last known address.
 - a. This notice is required only once for the taxable period and unpaid tax which is the subject of the lien filing. If an additional assessment of tax is made after the first lien is filed, a second lien may be filed and the Automated Lien System (ALS) will generate a second notice to the taxpayer.
 - b. For a joint income tax liability, each spouse will individually be sent the Letter 3172 explaining the right to a hearing. Two separately addressed notices are sent even if both spouses are at the same address.

Note: Refer to IRM 5.19.4.5, Notice of Federal Tax Lien Determinations and Filing Criteria, for more information.

- (3) **IRC 6330** gives taxpayers the right to request a hearing during the 30-day period after the date of the Notice of Intent to Levy and Right to Request a Hearing.
 - a. The notice will be given in person, left at the dwelling or usual place of business, or sent certified mail, (Registered mail is used when the taxpayer resides outside the United States because there is no international certified mail), to the taxpayer's last known address not less than 30 days **before** the date of the first levy.

Exception: There are four exceptions to the pre-levy notice requirements: When the collection of tax is in jeopardy (this applies to field collection only); when a levy is served on a state to collect a Federal tax liability from a state income tax refund; Disqualified Employment Tax Levies; and

Letter 1058-F, Post Levy Federal Contractor Collection Due Process. In these situations, the taxpayer will be given the opportunity for a hearing within a reasonable period of time **after** the levy.

- b. This notice is required only once for the taxable period and unpaid tax which is the subject of the pre-levy notice or post-levy notice. A second notice may be required if an additional assessment of tax is made after the original notice was issued.
- c. A second notice is required if levy action is planned to collect additional taxes that were assessed for the taxable period after the original notice was issued including additional failure to file or pay penalties assessed for the additional taxes.

Note: An additional CDP notice is not required for new assessments of interest and penalty accruals for the tax and penalties previously included on a CDP notice.

- d. For a joint income tax liability, each spouse will individually be sent, to their last known address, the notice explaining the right to a hearing. Two separately addressed notices are sent even if both spouses are at the same address.

(4) The following is a list of notices under IRC 6330:

| Notice of Levy | Description: |
|-----------------------|--|
| LT 11 or Letter 1058 | Notice of Intent to Levy and Notice of Your Right to a Hearing LT 11 is issued by ACS, Letter 1058 is issued by field Collection |
| LT 73 or Letter 1058e | Notice of Intent to Levy and Notice of Your Right to a Hearing LT 73 is issued by ACS on Disqualified Employment Tax Levy (DETL) cases. |
| Letter 1058-F | Post Levy Federal Contractor Collection Due Process |
| CPs 92 / 242 | Notice of Levy on Your State Tax Refund - Notice of Your Right to a Hearing, They are issued to inform the taxpayer that the levy proceeds have been received from the state under the automated State Income Tax Levy Program (SITLP). See IRM 5.19.9.3, State Income Tax Levy Program (SITLP) General. |
| CPs 90 / 297 | Notice of Intent to Levy and Notice of Your Right to a Hearing is sent systemically from Master File under the Federal Payment Levy Program (FPLP). See IRM 5.19.9.4.4, FPLP Generated Notice(s) and Appeal Rights. |
| CP 77 | Notice of Intent to Levy and Notice of Your Right to a Hearing is sent systemically from Master File under the Alaska Permanent Fund Dividend Levy Program (AKPFD). See IRM 5.19.9.5.1, What is the AKPFD? |

- (5) A hearing can be held by Appeals on a lien and a levy notice at the same time. This would happen if the taxpayer receives a subsequent notice after a hearing is requested on the first notice.
- (6) The delivery and receipt of the levy notice is indicated on IDRS TXMODA with TC971 and unique action codes (AC):
- TC971 AC 069 – mailed
 - TC971 AC 066 –The return receipt was signed (not necessarily by the taxpayer)
 - TC971 AC 067 – refused/unclaimed
 - TC971 AC 068 – returned undeliverable

Note: If the notice was issued by CFf, the action codes may have additional meanings. See IRM 5.11.1.3.3.3, Issuing Notice of Intent to Levy/Notice of a Right to a Hearing in Field Collection.

- TC971 action code 469 - indicates that no mail status (TC971 AC069, 066, 067, 068) has been received from the U.S. Postal Service (USPS) after 30 days. This is for information only and has no bearing on how you handle the case.
- (7) The delivery and receipt of the lien notice is indicated on IDRS TXMODA with the following TC971 and action codes:
- TC971 AC 252 - Mailed
 - TC971 AC 253 - Undelivered
 - TC971 AC 254 - Unclaimed
 - TC971 AC 255 - Refused
- (8) Seven TC 971 action codes, 275 - 280, and 630 are used to reflect the status of a Collection Due Process (CDP) hearing request. Three of the action codes track timely CDP requests and three track equivalent hearing requests. These action codes are systemically input to IDRS as cases are added and updated to the **CDP tracking system**. It is important that the tracking system be kept timely and accurately updated. The definitions for the TC 971 action codes are as follows:
- a. **Action Code 275** indicates that a timely request for CDP hearing has been received. This action code, in addition to the input of a TC971 AC630, is also used to exclude a module(s) from selection by the Automated Levy Programs: State Income Tax Levy Program (SITLIP), Federal Payment Levy Program (FPLP), Alaska Permanent Fund Dividend Levy Program (AKPFD) and Municipal Tax Levy Program (MTLP). The TC 971 AC 275 will post to the account when a DP (Due Process) hearing request is entered on the CDP tracking system at Stage 1, Receipt of Hearing Request. The TC 971 will reflect the stage 1 date. The TC971 AC275 also excludes modules from the Passport Certification Program.
 - b. **Action Code 276** indicates that a CDP issue was resolved in some manner by ACS or Field Collection, and the hearing request was withdrawn prior to Appeals without the case going to Appeals for resolution. This code reverses the 275 making the module eligible for selection by automated programs. The TC 971 AC 276 will post to the account

when a DP hearing request is updated to Stage 12, Resolved Prior to Appeals Consideration, on the CDP tracking system. The TC 971 will reflect the stage 12 date.

- c. **Action Code 277** indicates that Appeals has completed their investigation and issued a determination letter. This code reverses the AC 275 making the module eligible for selection by automated levy programs. Appeals will input TC971 AC 277 as part of their closing actions.
- d. **Action Code 278** indicates receipt of an equivalent hearing (EH) request. The module(s) are not excluded from automated levy programs. The 278 will post to the account when an EH hearing request is entered on the CDP tracking system at stage 1, Receipt of Hearing Request. The 971 will reflect the stage 1 date.
- e. **Action Code 279** indicates that a request for an equivalent hearing has been resolved either by ACS or Field Collection and the case was not sent to Appeals. The TC 971 AC 279 will post to the account when a EH hearing request is updated to Stage 12, Resolved Prior to Appeals Consideration, on the CDP Tracking System. The 971 will reflect the Stage 12 date.
- f. **Action Code 280** indicates that Appeals has completed their review of the EH hearing investigation and issued a decision letter. Appeals will input TC971 AC 280 as part of their closing actions.
- g. **Action Code 630** when posted with a TC 971 action code 275 indicates the timely CDP hearing request involves a levy issue.

5.19.8.4.2
(05-03-2023)

Collection Due Process (CDP) Hearing Requests

- (1) **ACS CDP cases are received and processed in the four ACS Support sites.** The SBSE sites are Philadelphia and Cincinnati. The W&I sites are Kansas City and Fresno. Only CDP caseworkers in the four ACS Support sites have the authority to work the Form 12153, Request for Collection Due Process or Equivalent Hearing (CDP/EH) or its written equivalent. Any Forms 12153 or written equivalent received in Customer Account Services, ACS Call Site, Collection Operations, etc., must be forwarded within one business day of receipt in your operation/function to the appropriate ACS Support, CDP Unit. The appropriate site may be determined by accessing SERP, click the tab for Who / Where, ACS CDP Coordinators. The names, phone numbers and addresses of the CDP Coordinators along with the states that each CDP Unit covers can be obtained as well. If a Form 12153 is received at an incorrect CDP site, EEFax the form including all supporting documents and envelope, within one business day to the CDP Coordinator at the correct site. After EEFaxing, destroy the original hardcopy.

Note: If the CDP notice includes multiple addresses (such as the address for submitting a payment), and the taxpayer does not send the request to the correct address for submitting the CDP request, but uses another address listed in the CDP notice, timeliness is determined based on the date the request is mailed.

- (2) Most CDP/EH requests are submitted by taxpayers in paper form. Once a request is received in the ACSS CDP Unit, it is converted to a paperless format by scanning the document using a copier multifunctional device (CMFD) into a pdf file. It is then processed in this electronic paperless format from this point. Instructions on how to use a CMFD are located on the intranet: IRS Source, under the Computers & Technology tab, IT4U, select printers and then scroll down to Canon CMFD Overview. The electronic platforms that the cases

reside on while being processed in the CDP Units are different at each site. Obtain specific information from your local CDP Unit manager, CDP Coordinator or lead.

Exception: Cases with too many pages or documents to scan (i.e. the resulting pdf file will be too large for uploading to the Appeals SharePoint site) will be processed in hard copy format.

- (3) Attempt to resolve the account or issue with the taxpayer without the need for a taxpayer to file a formal appeal. This may include manager intercession in discussions with the taxpayer. By law, taxpayers are not required to discuss their problem with a collection manager first; however, they should be encouraged to do so because their problem could be resolved without Appeals consideration. Taxpayers entitled to request an appeal under the CDP statutory provisions need to be advised of the requirements and time frames for filing an appeal. It is important to inform taxpayers that your discussions do not suspend the running of (or otherwise extend) the 30-day period during which taxpayers may request a CDP hearing.
- (4) **If the taxpayer wants to file** a request for a Collection Due Process hearing:
 - a. It must be in writing.
 - b. If in response to a Notice of Intent to Levy and Notice of Your Right to a Hearing, it must be within 30 days of the date of the Notice.
 - c. If in response to the Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320, it must be filed within the 30 days beginning with the day after the five business day period after the filing of the NFTL, which is the date the NFTL is delivered to the recording office. On letter 3172 this is indicated as the MUST FILE BY date. See IRM 5.19.8.4.1(2), Notice of Collection Due Process (CDP) Appeal Rights, regarding how the “must file by” date is calculated.
 - d. It must be signed. See IRM 5.19.8.4.7.4, Signature Requirements.
 - e. If the hearing request is filed late, the taxpayer may be entitled to an equivalent hearing but only if specifically requested. See IRM 5.19.8.4.2.1, CDP Hearing Requests - Timeliness and IRM 5.19.8.4.3, Equivalent Hearing (EH) Requests and Timeliness of EH Requests.

Note: If a taxpayer requests a copy of the CDP notice, Letter 3172, Notice of Federal Tax Lien and Notice of Your Rights to a Hearing Under IRC 6320, generate a copy from the Automated Lien System (ALS). Print or type “Duplicate” across the top and provide the copy to the taxpayer. If a taxpayer requests a copy of the CDP notice, LT11 (Letter 1058), Notice of Intent to Levy and Notice of Your Rights to a Hearing, provide a copy from the Control-D system. Print or type “Duplicate” across the top and provide the copy to the taxpayer.

- (5) Advise the taxpayer to use Form 12153, Request for Collection Due Process or Equivalent Hearing, to request the appeal (Faxes are acceptable). If this form is not used, a written request (whether or not on Form 12153) signed and dated by the taxpayer or authorized representative is acceptable. A written request must include the following information:
 - Taxpayer name(s), address, and daytime telephone number (if any).
 - Taxpayer identification number (SSN, ITIN or EIN).
 - The type of Tax.

- The tax period(s) at issue.
- A statement that the taxpayer requests a hearing concerning the proposed levy or in the case of post levy CDP requests, the actual levy action, or the filing of the Notice of Federal Tax Lien.

Note: If the taxpayer did not submit a Form 12153, but it is evident that the taxpayer is requesting a CDP hearing, then the taxpayer has met the requirement.

- The reasons why the taxpayer disagrees with the action.
 - The signature of the taxpayer or the taxpayer's authorized representative.
- (6) If the tax liability involves a partnership, a request for a CDP hearing under IRC 6330 would cover all partners in the partnership. Under IRC 6320, the partnership and partners listed on the NFTL receive the CDP hearing notice. A partner with authority to represent the partnership could request a hearing for the partnership or a partner listed on the NFTL could request a CDP hearing as an individual partner.
- (7) The taxpayer **must mail the request for the CDP hearing to the address shown on the lien or levy notice.** If the address of that office does not appear on the CDP notice, the taxpayer should obtain the address of the office to which the written request must be sent by calling the toll-free number on the notice or by calling toll-free 1-800-829-1040 and providing the taxpayer's identification number (TIN, EIN, or ITIN). If the taxpayer wishes to fax the CDP hearing request, the taxpayer may request the fax number of the appropriate office from one of these toll-free numbers.
- (8) Ensure that an IRS received date is stamped or notated on the Form 12153, Request for Collection Due Process or Equivalent Hearing, taxpayers' correspondence, or any other documentation that is being used as the Appeals request and keep the envelope attached.

Note: When there are multiple date stamps, circle in red, the date-stamp used in determining timeliness.

- (9) **Timely mailed constitutes timely filed** if the taxpayer's request for a CDP hearing is correctly addressed to the IRS office listed in the CDP Hearing Notice. If the CDP hearing request is sent to another address on the CDP notice (even if it is not the correct office for submitting the CDP request), timeliness is determined based on the date the request is mailed. However, if the address does not appear on the notice, or if it is determined that the taxpayer received erroneous instructions from an IRS employee resulting in the request being sent to the wrong office, use the postmark date to that office to determine timeliness.

Note: A request that is hand-carried to a local Taxpayer Assistance Center will be timely if delivered within the 30-day period during which taxpayers may request a hearing. See IRM 5.19.8.4.7.1.2, CDP Hearing Requests Hand Delivered to Taxpayer Assistance Centers (TAC).

- (10) If the taxpayer received both a lien and a levy notice, both actions may be appealed. The requests should be consolidated for the CDP hearing.

- (11) The beginning of the 30-day period, the date of the notice, can be ascertained by looking at the notice, if attached to the Form 12153, at the date of the TC971 AC069, or from the Certified Mail Repository System (CMR).
- (12) If the request for the appeal is filed after the IRC 6320/6330 notice period, the taxpayer may be entitled to receive an equivalent hearing. IRM 5.19.8.4.3, Equivalent Hearing Requests and Timeliness of Equivalent Hearing (EH) Requests.
- (13) A request for a CDP hearing includes all periods entitled to a CDP hearing that are listed on the CDP hearing notice, unless the taxpayer explicitly states certain tax periods are excluded. In the case of untimely requests based on a POA copy listing tax periods not on the taxpayer's copy of the CDP notice, the taxpayer is deemed to have been given a CDP notice only for those tax periods listed on the properly delivered CDP notice.
- (14) The hearing rights apply to all tax periods raised in the taxpayer's appeal that are subject to the CDP hearing. Taxpayers are asked to include a copy of the notice with the request. If a copy of the notice is included, the request is processed to include all taxes and periods listed on the notice.
- (15) If the notice is not included and one of the boxes (lien/levy) is not checked, research IDRS (for the last year), to determine the appropriate taxes and periods to be included in the hearing request.
- (16) If the taxpayer includes in the hearing request periods that are not listed on the notice, the taxpayer may be requesting an equivalent hearing for the other periods.
- (17) If the taxpayer includes periods that are not timely for a CDP hearing, determine if the taxpayer is entitled to receive an equivalent hearing. If so, process the request as a request for an equivalent hearing provided the taxpayer has checked the equivalent hearing box (#7) on Form 12153. If it is not checked, see IRM 5.19.8.4.3, Equivalent Hearing (EH) Requests and Timeliness of EH Requests.
- (18) If the taxpayer includes periods that previously received a CDP hearing, process the request as a request for an appeal under the retained jurisdiction provisions, if:
 - a. the requested hearing and prior hearing are both for the same type of collection action, and
 - b. it meets retained jurisdiction criteria. See IRM 5.19.8.4.15, Retained Jurisdiction Hearings.
- (19) If a levy has been issued, and it is determined that the Notice of Intent to Levy was not properly mailed to the taxpayer's last known address, the Notice is invalid. Refer to IRM 5.19.8.4.4, Invalid CDP Notices and Rescinding a Notice of Intent to Levy and Notice of Your Right to a Hearing, for further guidance. If a levy was inadvertently made, release the levy. Proper notification under IRC 6330 is required prior to levy action.

5.19.8.4.2.1
(08-27-2010)
**CDP Hearing Request -
Timeliness**

- (1) For a CDP request to be timely, the taxpayer must submit a written request for a CDP levy hearing within the 30-day period starting the day after the date of the CDP levy notice (e.g., LT11). If the request for the hearing is made after this period, the taxpayer may be entitled to an equivalent hearing.

- (2) For a CDP lien hearing request to be timely, a taxpayer must submit a written request for a CDP hearing within the 30-day period that starts the day after the end of the five-business-day period following the filing of the NFTL. Filing means the date the NFTL is delivered to the recording office for indexing. The letter 3172 provides the date for the taxpayer to file a timely request. If a request is filed late, the taxpayer may be entitled to request an equivalent hearing. See IRM 5.19.8.4.3, Equivalent Hearing Requests (EH) and Timeliness of EH Requests.

Note: Appeals will look to the actual filing date of the NFTL for purposes of determining timeliness of the lien hearing requests if the taxpayer disagrees with the timeliness determination.

- (3) A timely filed request suspends the statutory period of limitations on collection (CSED) is suspended), criminal prosecution and other suits for periods listed on the CDP notice. IRM 5.19.8.4.10, Suspension of the Collection Statute Expiration Date (CSED). In addition, levy action is prohibited on the tax periods that are the subject of a CDP hearing under IRC 6330 if the CDP request is timely filed. See IRM 5.19.8.4.6, Collection Action During the CDP Appeal Period, for more information .
- (4) A request for a CDP hearing with respect to a tax period is untimely if:
- The request was not received within the required time period.
 - The timely but non-processable request is not made processable by the taxpayer within the time period given (up to 15 calendar days) for perfection.
- (5) When a CDP hearing request is untimely, the request must be sent to Appeals for a separate timeliness determination. See IRM 5.19.8.4.3.1, Separate Timeliness Determinations.

5.19.8.4.2.2
(05-03-2023)

Perfection of Timely CDP Hearing Requests

- (1) In some cases Forms 12153 or other written requests are timely filed but must be made processable. An unprocessable CDP request is a request:
- a. Not signed.
 - b. Signed, but the signer is not authorized to sign on behalf of the taxpayer (ex. an unenrolled return preparer).
 - c. Signed, but signer does not have authorization (no POA on file).
 - d. Does not have a valid SSN, ITIN, EIN and one could not be identified.
 - e. Taxpayer fails to check a box and/or does not list a reason for the dispute or disagreement.

Note: A missing signature date on a validly signed request does not require perfection.

- (2) If a request for a CDP hearing is filed timely, but is not processable, contact the taxpayer and allow up to 15 calendar days for the taxpayer to perfect the request so that it is processable. If the taxpayer meets this requirement, the request is timely filed. Such request is timely even if the perfection occurs after the time frame for requesting a timely hearing.

Note: If the taxpayer demonstrates that the late response was due to extenuating circumstances, such as being in the hospital or out of the country during that period, then treat the request as timely.

- (3) Adjust the follow-up date for 10 calendar days beyond the deadline date given to the taxpayer and enter on ACS: OADT,XX,CDPFW.

Example: Taxpayer is given 15 days to respond, enter: OADT,25,CDPFW.

- (4) If the taxpayer makes the request processable after the 15-day period, and after the time frame for requesting a timely hearing, the request will be considered processable, but untimely. The taxpayer must be offered an opportunity to request an equivalent hearing. IRM 5.19.8.4.3, Equivalent Hearing (EH) Requests and Timeliness of EH Requests.
- (5) If after the taxpayer attempts to perfect the request it is still determined not processable, the taxpayer is not entitled to a CDP hearing. Notify the taxpayer either orally or in writing that the request for a CDP hearing cannot be processed. Explain that the taxpayer may be eligible for an equivalent hearing and enclose a Form 12153, Request for Collection Due Process or Equivalent Hearing. Document Account Management Services (AMS).

Note: Unprocessable requests not made processable should not be sent to Appeals. These requests do not require Separate Timeliness Determinations.

- (6) If the hearing request is timely and processable but missing information, before contacting the taxpayer, try to obtain the missing information (ex: type of tax, tax period, address, phone number) from IRS systems such as IDRS.
- (7) If not available from IRS systems, such as a statement that the taxpayer requests a CDP hearing, try and obtain it from the taxpayer, giving them up to 15 days to respond. An incomplete request is processable when received, is timely even if the taxpayer perfects it late or only perfects the request partially or does not respond.
- (8) The taxpayer may request a CDP in a written statement and not use Form 12153. If it is evident that the taxpayer is requesting a CDP hearing, then the taxpayer has met the requirement.
- (9) Some missing information may be obtained by phone and written in (for example: the taxpayer's reason for disagreement), but not a signature. However, if the taxpayer indicates frivolous reasons for the hearing request or is evasive, request the missing information in writing.
- (10) If the taxpayer is reached by phone and is able to provide information during the call, offer them the options to submit it to you by Eefax or Document Upload Tool (DUT) if available. For more information on DUT see IRM 5.19.1.2, Balance Due Overview.

5.19.8.4.2.3
(12-17-2019)

**Other CDP Perfection
Situations**

- (1) Below are additional situations you may encounter while reviewing / perfecting CDP hearing requests:

| IF | THEN |
|--|---|
| Taxpayer has already had a CDP hearing for the tax periods indicated on the hearing request. | <ol style="list-style-type: none"> 1. Notify the taxpayer by phone or in writing that they have already had a CDP hearing for the periods indicated, and that they are entitled to only one hearing for each tax period (see IRM 5.19.8.2). Also inform the taxpayer of other options e.g., CAP if appropriate. 2. Close the case. 3. Document AMS. 4. Send documents to files using TC290 for .00 with appropriate blocking series. |
| A lien notice or a levy notice has not been issued to the taxpayer for the tax periods indicated on the CDP hearing request. | <ol style="list-style-type: none"> 1. Notify the taxpayer by phone or in writing that a Notice of Intent to Levy, LT11/1058 or Notice of Federal Tax Lien, letter 3172 has not been issued for the tax periods indicated, therefore they are not entitled to a hearing. Also inform the taxpayer of other options, e.g. CAP if appropriate. 2. Close the case. 3. Document AMS. 4. Send documents to files using TC290 for .00 with appropriate blocking series. <p>Note: If a lien notice or levy notice is going to be filed or issued, advise the taxpayer that they are entitled to a CAP hearing.</p> |

5.19.8.4.3
(05-03-2023)

**Equivalent Hearing (EH)
Requests and timeliness
of EH Requests**

- (1) If the taxpayer did not timely request a CDP hearing with Appeals, the taxpayer may be entitled to an "equivalent hearing" with Appeals, but only if specifically requested. Late filed CDP requests will not automatically be processed as Equivalent Hearings.
- (2) An equivalent hearing is equivalent to a CDP hearing in all ways except that there is no statute suspension, no retained jurisdiction, and the taxpayer does

not have the right to seek judicial review of Appeals' decision at the conclusion of an equivalent hearing. Following an equivalent hearing the appeals officer sends the taxpayer a Decision letter explaining the results of the hearing.

Note: The only exception to this is as it relates to spousal defenses under IRC 6015 and denial of interest abatement under IRC 6404 in the Tax Court. The taxpayer has 90 days to file a petition for review of a denial of innocent spouse relief and 180 days to file a petition for review of denial of interest abatement. There is also potential for litigation over whether or not the CDP request is timely. See IRM 8.22.8, Liability Issues and Relief from Liability.

- (3) A taxpayer can request an equivalent hearing if the liability is still outstanding (unless the taxpayer did not agree to the offset or payment that full paid the account) and the taxpayer did not previously receive a CDP or an equivalent hearing for the same period. The taxpayer must submit a written request for an equivalent hearing within the one-year period beginning the day after the date of the CDP Levy Notice. For the CDP Lien Notice, the taxpayer must submit a written request for an equivalent hearing within the one-year period beginning the day after the end of the five-business-day period following the filing of the Notice of Federal Tax Lien (NFTL). If the request is received after the one-year period, notify the taxpayer of his/her rights under CAP and assistance from the Taxpayer Advocate Service.
- (4) The taxpayer can request an equivalent hearing either by:
 - a. Checking the Equivalent Hearing box on Form 12153, Request for Collection Due Process or Equivalent Hearing, or other written request.
 - b. Confirming that they/she wants an untimely CDP hearing request to be treated as an equivalent hearing when notified by Collection of an untimely CDP hearing request.
- (5) Late CDP hearing requests are not automatically treated as equivalent hearing requests. However, treat a late filed CDP hearing request as a request for an equivalent hearing if:
 - The taxpayer has checked the Equivalent Hearing box on the Form 12153.
 - Otherwise indicated in writing that the taxpayer wishes an equivalent hearing.
- (6) For late filed CDP hearing requests where the taxpayer has not checked the box on Form 12153 or otherwise indicated in writing that the request is to be treated as a request for an equivalent hearing, notify the taxpayer either orally or in writing of the late filed request and advise the taxpayer of the right to request an equivalent hearing. Explain to the taxpayer that:
 - a. A CDP hearing and an equivalent hearing are substantially the same, but there is no judicial review of an equivalent hearing.
 - b. the taxpayer is entitled to challenge in the hearing Collections' determination that the request is untimely.

If the taxpayer indicates either orally or in writing that the CDP request should be handled as an equivalent hearing request, process the CDP request as a request for an equivalent hearing. There is no need for the taxpayer to file a separate request for an equivalent hearing.

- (7) If the taxpayer has requested an Equivalent Hearing using Form 12153 or submitted the request in writing, the request for the equivalent hearing should be stamped with a received date. Use the received date in the office listed on the CDP hearing notice to determine the timeliness of the equivalent hearing request. If the received date is after the one-year time frame for filing and equivalent hearing request but the request was postmarked timely, use the postmark date as the receipt date. IRM 5.19.8.4.7, Processing CDP and Equivalent Hearing Requests.

Note: When there are multiple date stamps, circle in red the date-stamp used in determining timeliness.

- (8) If a taxpayer has elected to treat the CDP hearing as an equivalent hearing request, use the postmark date of the CDP hearing request as the date the request was submitted. If the taxpayer submitted a CDP hearing request within the one-year period and the taxpayer responded within the 15 calendar-day time period that the taxpayer wanted an equivalent hearing but the taxpayer's response was later than the one-year period, the request for equivalent hearing is timely.
- (9) A taxpayer's request for an equivalent hearing can be submitted via Eefax or Document Upload Tool (DUT). The transmission date will be the received date. Retain the transmittal sheet along with the hearing request.
- (10) When an equivalent hearing request is untimely (after the one-year time frame), the request must be sent to Appeals for a separate timeliness determination.

5.19.8.4.3.1
(05-03-2023)

Separate Timeliness Determinations

- (1) In the following situations, hearing requests must be sent to Appeals for a separate timeliness determination:
- CDP hearing requests that were untimely received and the taxpayer did not request an equivalent hearing.
 - CDP hearing requests that were timely received yet unprocessable, and after 15 days the taxpayer perfects the request or partially perfects the request so the request is processable and the taxpayer does not want an equivalent hearing.
 - Equivalent hearing requests that were untimely (after the one-year time-frame) received.
 - Equivalent hearing requests that were timely yet unprocessable and, after the 15 days and after the one-year time period for requesting an equivalent hearing, the taxpayer perfects the request or partially perfects the request so that it is processable but untimely. See IRM 5.19.8.4.2.1, CDP Hearing Request - Timeliness and IRM 5.19.8.4.3, Equivalent Hearing (EH) and Timeliness of EH Requests.
- (2) Procedures for Separate Timeliness Determinations:
- Processing a late CDP request.

| If | And | Then |
|------------------------------|---|--|
| A CDP request is filed late. | The taxpayer has indicated on the request that it is to be treated as a request for an equivalent hearing (EH). | Continue routine case building as an EH and forward to Appeals. |
| A CDP request is filed late. | The taxpayer has not indicated that the request is to be treated as an EH. | <ul style="list-style-type: none"> a. Make one phone call attempt to the taxpayer and advise of his/her right to request an EH. b. If no phone contact on first attempt, send a letter advising the taxpayer of his/her right to request a (EH). c. Clearly document this contact on AMS history. d. Allow the taxpayer 15 calendar days to respond. |

b. Processing the taxpayer response.

| If | Then |
|---|--|
| The taxpayer responds affirming that the request be treated as an EH. | <ul style="list-style-type: none"> a. Clearly document the contact on AMS. b. Continue building the case and forward it to Appeals. |
| There is no response from the taxpayer. | <ul style="list-style-type: none"> a. Clearly document AMS. b. Forward the request to Appeals for a Separate Timeliness Determination. c. Input activity code: CDPCHKSTD on IDRS. d. After the timeliness determination is received from Appeals, contact the taxpayer either verbally or in writing of the determination. |

| If | Then |
|--|---|
| The taxpayer disputes the timeliness determination that the request is not timely. | <ol style="list-style-type: none"> Clearly document the contact on AMS. Forward the request to Appeals for a Separate Timeliness Determination. Input activity code: CDPCHKSTD on IDRS. After the timeliness determination is received from Appeals, inform the taxpayer either verbally or in writing of the determination. If the taxpayer does not concur with the decision, inform them of their right to request assistance from TAS, appeal under CAP and the right to appeal the decision to the Tax Court. |

c. Processing a late EH request.

| If | And | Then |
|---|-----------------------------|---|
| The taxpayer has requested an equivalent hearing after the one-year period. | The request is processable. | <ol style="list-style-type: none"> Clearly document the contact in AMS history. Forward the request to Appeals for a Separate Timeliness Determination. Input activity code: CDPCHKSTD on IDRS. After the timeliness determination is received from Appeals, contact the taxpayer either verbally or in writing of the determination. |

| If | And | Then |
|--|--|---|
| The taxpayer has requested an equivalent hearing that is timely but unprocessable. | After the 15 days and the one year period, the taxpayer perfects or partially perfects the request so that it is processable but untimely. | <ol style="list-style-type: none"> Clearly document the contact in AMS history, Forward the request to Appeals for a Separate Timeliness Determination, Input activity code: CDPCHKSTD on IDRS. After the timeliness determination is received from Appeals, contact the taxpayer either verbally or in writing of the determination. |

- (3) Do not enter the case (Separate Timeliness Determination) on to the CDP Tracking System.
- (4) Forward the case to Appeals by uploading the pdf case file to the *Electronic Case Receipts (ECR) page* and selecting Separate Timeliness Determination.
- (5) The following documents should be included in the uploaded file for the Separate Timeliness Determination:
 - Form 12153
 - CDP notice (LT11 / letter 1058, letter 3172, etc.)
 - Envelope
 - Copy of letter sent to taxpayer
 - Copy of AMS history as it pertains to the timeliness determination
- (6) Document AMS history: "To Appeals for Timeliness Determination". Input ACS history code: "OADT,15,CDPSTD".
- (7) If the follow-up date on the STD has expired with no response from Appeals, add another 5 calendar days using the ACS history code: "OADT,05,STDFLUP".

Note: If no response is received from Appeals by the second follow-up date, alert the ACSS-CDP Coordinator within 3 days to contact the lead CDP analyst in Appeals.

- (8) Within 15 calendar days of receipt, Appeals will make separate timeliness determinations and respond back to ACS Support (ACSS). Appeals will furnish to ACSS via efax, a copy of Form 5402 which includes an attachment explaining the decision.
- (9) Inform the taxpayer of the Appeals decision. Handle any inquiries from the taxpayer on this matter. Do not refer them to Appeals.
- (10) If Appeals disagrees with the ACSS determination of an STD, i.e. ACSS classifies it as an equivalent hearing and Appeals determines the request is timely, Appeals will return the case and direct ACSS to develop the case as a CDP and return it to Appeals. All STDs will be returned with a Form 5402 which will either state that Appeals agrees or disagrees with the timeliness determination and instructs ACSS on the actions to take. Appeals may agree with some periods and disagree on others. This will also be indicated on the Form 5402.

5.19.8.4.3.2
(12-17-2019)
**Perfection of Timely
Equivalent Hearing
Requests**

- (1) In some cases, Forms 12153 or other written request for equivalent hearing are timely filed but must be made processable. An unprocessable Equivalent hearing Request:
 - a. Not signed.
 - b. Signed but the signer is not authorized to sign on behalf of the taxpayer (ex: an unenrolled return preparer).
 - c. Signed but does not have authorization (no POA on file).
 - d. Does not have a valid SSN, ITIN, EIN, and one could not be identified.
 - e. Taxpayer fails to check a box and/or does not list a reason for the dispute or disagreement.

- (2) If a request for an equivalent hearing is filed timely, but needs to be perfected, attempt to contact the taxpayer and allow a reasonable period of time, generally 15 calendar days, for the taxpayer to perfect the request. If the taxpayer meets this requirement the request is timely filed.

Note: If the taxpayer demonstrates that the late response was due to extenuating circumstances, such as being in the hospital or out of the country during that period, then treat the request as timely.

- (3) Missing information may be obtained by phone and written in (for example: the taxpayers' reason for disagreement, but not a signature). However, if the taxpayer indicates frivolous reasons for the hearing request or is evasive, request the missing information in writing.
- (4) If the taxpayer is reached by phone and is able to provide information during the call, offer them the options to submit it to you by Eefax or Document Upload Tool (DUT) if available. For more information on DUT see IRM 5.19.1.2, Balance Due Overview.
- (5) If the taxpayer makes the unprocessable request processable after the 15-day period, the request will be considered processable provided it is made before the one-year period for requesting an equivalent hearing expires.
- (6) If the taxpayer makes the request processable after the 15-day period and after the one-year period, the taxpayer is not entitled to an equivalent hearing. Follow procedures for separate timeliness determinations in IRM 5.19.8.4.3.1(2), Separate Timeliness Determinations.

- (7) If after the perfection process the request is still not processable, the taxpayer is not entitled to an equivalent hearing.
- Notify the taxpayer either by phone or letter that their request for an equivalent hearing cannot be processed. Document the contact on AMS.
 - Explain that the taxpayer is eligible to make another request for an equivalent hearing on or before the expiration date of the one-year period applicable to IRC 6320 or 6330.
 - Document AMS history with the reason why the request could not be processed. Include a copy of the hearing request, the AMS history, and any written correspondence to and from the taxpayer in the case file.
- (8) If a late filed CDP request is treated as a request for an equivalent hearing and is incomplete, follow the perfection procedures above.

5.19.8.4.3.3
(12-17-2019)
**Other EH Perfection
Situations**

- (1) Below are additional situations you may encounter while reviewing / perfecting Equivalent Hearing (EH) requests:

| IF | THEN |
|---|---|
| Taxpayer has already had a CDP/EH hearing for the tax periods indicated on the hearing request. | <ol style="list-style-type: none"> 1. Notify the taxpayer by phone or in writing that they already had a CDP/EH hearing for the periods indicated, and that they are entitled to only one hearing for each tax period (see IRM 5.19.8.2). Also inform the taxpayer of any other appropriate options, e.g. CAP. 2. Close the case. 3. Document AMS. 4. Send documents to files using TC290 for .00 with appropriate blocking series. |

| IF | THEN |
|---|---|
| A lien notice or a levy notice has not been issued to the taxpayer for the tax periods indicated on the CDP/EH hearing request. | <ol style="list-style-type: none"> 1. Notify the taxpayer by phone or in writing that a Notice of Intent to Levy, LT11/1058 or Notice of Federal Tax Lien, letter 3172 has not been issued for the tax periods indicated, therefore they are not entitled to a hearing. Also inform the taxpayer of other options, e.g. CAP if appropriate. 2. Close the case. 3. Document AMS. 4. Send documents to files using TC290 for .00 with appropriate blocking series. <p>Note: If a lien notice or levy notice is going to be filed or issued, advise the taxpayer that they are entitled to a CAP hearing.</p> |

5.19.8.4.4
(01-01-2015)

**Invalid CDP Levy
Notices and Rescinding
a Notice of Intent to
Levy / Notice of a Right
to a Hearing**

- (1) Notice of Intent to Levy and Notice of Your Right to a Hearing is only to be issued when levy is the next planned action.
- (2) If a CDP notice is **invalid**, a substitute notice must be issued in order for the taxpayer to be entitled to a hearing. Situations warranting the issuance of a substitute CDP notice because the CDP notice was invalid include when the taxpayer:
 - a. Did not receive the CDP notice because it was not sent to the taxpayers last known address (in which case the notice is invalid).
 - b. Is in bankruptcy and the automatic stay prohibits the issuance of collection notices and collection by levy (in which case the CDP levy notice is treated as void and invalid). The substitute CDP notice can be issued when the automatic stay is no longer in effect.
 - c. Did not receive a CDP notice because it was not sent individually to each joint filer. A notice may be valid as to one or both of the joint filer(s) if there is proof that person actually received the notice or that person timely requested a CDP hearing
 - d. Receives a notice that inadvertently includes an SRP liability (MFT 35).

| IF | THEN |
|---|--|
| The taxpayer did not receive the CDP notice because it was not sent to the last known address. | <ol style="list-style-type: none"> Send letter 3790C, Invalid CDP Notice - Notice of Intent to Levy - No Withdrawal Required. Research for the correct last known address and issue the substitute notice. Follow steps in (5) below regarding input actions for invalid notices. Notate AMS. |
| The taxpayer is in bankruptcy and the automatic stay prohibits the issuance of collection notices and collection by levy. | <ol style="list-style-type: none"> Send letter 3790C, Invalid CDP Notice - Notice of Intent to Levy - No Withdrawal Required, Follow steps in (5) below, Notate AMS. <p>Note: Corrective actions must be initiated within two work days of knowledge of the violation. See IRM 5.9.3.5.1, Violations of the Automatic Stay.</p> |
| The taxpayer did not receive a CDP notice because it was not sent individually to each joint filer. | <ol style="list-style-type: none"> Issue the substitute notice to the individual taxpayer that did not receive a notice. |
| <p>If a taxpayer makes a timely hearing request from a CDP levy notice that is invalid because it was:</p> <ul style="list-style-type: none"> Not sent to the last known address or Not sent individually to a joint filer. | <p>Treat the request as timely. By making a timely request, the taxpayer is deemed to have waived any defect in the issuance of the CDP notice.</p> <p>Note: A taxpayer is not entitled to a CDP hearing pursuant to a CDP levy notice issued in violation of the automatic stay.</p> <p>Note: Input address change as appropriate if the taxpayer's address has changed since the Last Known Address.</p> |

- (3) The time period for requesting a hearing is suspended while the taxpayer is in any of the following situations plus 180 days (section 7508 status):

- In a combat zone.

- Part of a contingency operation away from the taxpayer's permanent duty station.
- Recuperating during a qualified hospitalization.

Check IDRS for any Transaction Code (TC) 500 that may extend the 30-day period for requesting a hearing (see IRM 5.19.2.6.4.2.1, Combat Zone IMF Procedures and IRM 5.19.22.5.3.3, BMF Special Handling Responses). The time period for requesting a hearing resumes when the section 7508 status ends (e.g. combat zone exit date plus 180 days). Because the time period for requesting a hearing is extended when the taxpayer is in section 7508 status, the time period for rescinding the notice is also extended. CDP requests that appear untimely may in fact be timely if made by taxpayers who were in section 7508 status at the time of the original notice issuance or during the time period for requesting a hearing. Look for prior TC 500s and their reversals on all untimely requests and compare those to the CDP notice dates. The TC 500 indicates the date the taxpayer entered section 7508 status and its reversal indicates the date of exit from a combat zone, contingency operation or qualified hospitalization. All requests received in that time-frame or during the following 180 days should be honored as timely, with an explanation on the case when sent to Appeals.

Note: If the taxpayer has requested a CDP hearing, the Service cannot rescind the CDP notice but shall delay the CDP hearing in accordance with section 7508.

- (4) If a taxpayer is entitled to relief under the Servicemembers Civil Relief Act of 2001, the request should be worked by Appeals in the CDP or Equivalent Hearing if the taxpayer requests a hearing.
- (5) When a CDP levy notice is invalid, take the following action:
 - Input Transaction Code (TC) 972, Action Code (AC) 069 to reverse each TC 971 that has already been input for the invalid notice. The input date for each TC 972 must be the same as the date for the TC 971 it is reversing.

Note: TC 971 AC 069 need not be reversed if the taxpayer has submitted a timely hearing request from an invalid notice sent to an address other than the taxpayer's last known address or not mailed to a joint filer individually.

Note: Input address change as appropriate if the taxpayer's address changed since the Last Known Address.

- (6) A valid CDP levy notice issued in error can be **rescinded** but only if:
 - a. The rescission is accomplished before the expiration of the time period in which the taxpayer may request a CDP hearing; and
 - b. The taxpayer has not requested a CDP hearing.
- (7) You should rescind a valid CDP levy notice during the 30-day period for requesting a hearing before you receive a taxpayers hearing request if you learn that the notice was issued when the case is in a status in which levy action is prohibited. Rescission is not permitted once the 30-day period expires or the taxpayer makes a timely hearing request. Situations where levy action is prohibited after a valid CDP levy notice is sent include:

- During a pending offer-in-compromise.
- During a pending installment agreement request.
- When an installment agreement is in effect.
- During a pending innocent spouse request.

| IF | THEN |
|---|--|
| A notice was issued in any of the above listed prohibited situations. | a. Send letter 3788C, Rescission Letter-Notice of Intent to Levy Issued Erroneously, to the taxpayer. b. Follow steps in (13) below regarding input actions for rescinding notices. |

- (8) Use Letter 3788C, Rescission Letter - Notice of Intent to Levy Issued Erroneously, to notify the taxpayer. The letter explains the Notice of Intent to Levy and Notice of Your Right to a Hearing is rescinded and as a result any CDP hearing request submitted after the date of the letter is disregarded. It also explains that the taxpayers CDP hearing rights are preserved.
- (9) If you receive a properly addressed, timely hearing request after sending the letter 3788C, check the dates to see which was mailed first (check the postmark date on the request).

| IF | THEN |
|--|---|
| If the taxpayers request pre-dates the date of the letter 3788C. | a. The letter 3788C is ineffective and the CDP rights cannot be rescinded. Forward the request to Appeals for resolution. b. Notate AMS. |

Note: If the timely hearing request was not properly addressed, use the date of the receipt of the request. The CDP levy notice is rescinded if the Letter 3788C was mailed before the hearing request was received.

- (10) If the taxpayer submits a hearing request in response to a valid CDP levy notice issued when levy is prohibited and the CDP notice has not been previously rescinded, the taxpayer is still entitled to a CDP hearing. Explain the error to the taxpayer. If the taxpayer no longer wants a hearing, the taxpayer must withdraw the request for a hearing. Refer to IRM 5.19.8.4.8, Withdrawal of a Request for a CDP Hearing or Equivalent Hearing Request. Explain to the taxpayer that if the hearing request is withdrawn, the proposed Offer-in-Compromise, installment agreement request, or innocent spouse claim will not be considered as part of the CDP process, and they will not get another opportunity for a CDP hearing.
- (11) In situations where a valid CDP levy notice was previously issued, and a subsequent CDP levy notice is issued in error, the notice issued in error does not afford the taxpayer an additional opportunity to request a hearing. Timeliness of any hearing request is based on the date of the original CDP levy notice.

- (12) If you encounter a case where it would seem inappropriate to rescind a CDP levy notice that was issued in error, notify management and Headquarters so they can help you make a case-specific decision.
- (13) When a notice is rescinded, take the following actions:
- Input a TC972 AC069 on the related module(s) to show the notice was rescinded.
 - Close an open IDRS control (C#,RSCNDLT11,C).
 - Input an IDRS history if no open IDRS controls (H,RSCNDLT11).
 - Input into AMS history (MCLT,,RSCNDLT11) along with comments, "Rescinded due to pending OIC, pending IA, etc. No withdrawal required.," along with any other pertinent information.
 - If Form 12153 or correspondence from the taxpayer was received, input a TC 290 with appropriate blocking to file it with the original return (See Document 6209, ADP and IDRS Information).

5.19.8.4.5
(05-03-2023)

**Invalid CDP Lien Notices
and Rescinding Letter
3172(DO), Notice of
Federal Tax Lien Filing
and Your Right to a
Hearing Under IRC 6320**

- (1) Tax modules with liens are identified as follows:
- On IDRS, a TC 582 posts to each affected tax period when a Notice of Federal Tax Lien (NFTL) is filed through the Automated Lien System (ALS).
 - On ACS, the entity screen displays literal LIEN if a NFTL has been filed on all ACS modules; an asterisk to the right of the LIEN means not all modules have a lien filed indicator. Check the tax module screen that displays the literal LIEN for each module on which a lien has been filed.
- (2) If CDP lien notice is invalid, a substitute notice must be issued in order for the taxpayer to be entitled to a hearing. Situations warranting the issuance of a substitute CDP notice because the CDP notice was invalid include when the taxpayer:
- Did not receive the CDP notice because it was not sent to the taxpayer's last known address (in which case the notice is invalid). If the taxpayer makes a timely request from the invalid notice, a substitute notice need not be issued.
 - Did not receive a CDP notice because it was not sent individually to each joint filer. A notice may be valid as to one or both of the joint filer(s) if there is proof that person actually received the notice or that person timely requested a CDP hearing. If the taxpayer makes a timely hearing request from the invalid notice, a substitute notice need not be issued.

| IF | AND | THEN |
|---|--|---|
| The taxpayer did not receive the CDP lien notice because it was not sent to the last known address. | The taxpayer's hearing request is received timely. | <ol style="list-style-type: none"> Treat the request as timely, process the case routinely, Input the correct address, Notate AMS. |

| IF | AND | THEN |
|--|--|--|
| The taxpayer did not receive the CDP lien notice because it was not sent to the last known address. | The taxpayer's hearing request is not received timely. | 1. Issue a substitute notice to the taxpayer at the correct address, 2. Notate AMS. |
| The taxpayer did not receive a CDP lien notice because it was not sent individually to each joint filer. | The taxpayer's hearing request is received timely. | a. Treat the request as timely, process the case routinely, b. Input the correct address for that joint taxpayer, c. Notate AMS. |
| The taxpayer did not receive a CDP lien notice because it was not sent individually to each joint filer. | The taxpayer's hearing request is not received timely. | 1. Issue a substitute notice to the taxpayer at the correct address, 2. Notate AMS. |
| The taxpayer submits a hearing request based on a CDP lien notice that is invalid because it was: <ul style="list-style-type: none"> • Not sent to the last known address or • Not sent individually to a joint filer. | The taxpayer's hearing request is received timely. | Treat the request as timely. By making a timely request, the taxpayer is deemed to have waived any defect in the issuance of the CDP notice. Note: Input address change as appropriate if the taxpayer's address has changed since the Last Known Address. |

(3) The time period for requesting a hearing is suspended while the taxpayer is in any of the following situations plus 180 days (section 7508 status):

- In a combat zone.
- Part of a contingency operation away from the taxpayer's permanent duty station.
- Recuperating during a qualified hospitalization.

Check IDRS for any Transaction Code (TC)500 that may extend the 30-day period for requesting a hearing. See IRM 5.19.2.6.4.2.1, Combat Zone IMF

Procedures, and IRM 5.19.22.5.3.3, BMF Special Handling Responses, for additional information. The time period for requesting a hearing resumes when the section 7508 status ends (e.g. combat zone exit date plus 180 days). CDP requests that appear untimely may in fact be timely if made by taxpayers who were in section 7508 status at the time of, or entered 7508 status shortly after, the filing of the NFTL that triggered the Letter 3172. Look for prior TC 500s and their reversals on all untimely requests and compare those to the CDP hearing request dates. The TC 500 indicates the date the taxpayer entered section 7508 status and its reversal indicates the date of exit from a combat zone, contingency operation or qualified hospitalization. If the taxpayer requests a hearing while in section 7508 status, then the hearing request should be deemed timely if the TC 582 has a date during the section 7508 status or within 45 days before the TC 500. If the taxpayer requests a hearing after the end of the section 7508 status (reversal of TC 500 plus 180 days), check to see if the TC 582 that triggered the Letter 3172 is dated during the section 7508 status. If so, treat the hearing request as timely if it is made within 45 days after the end of the section 7508 status.

- (4) In situations where a valid CDP lien notice was previously issued and a subsequent CDP lien notice is issued in error, the notice issued in error does not afford the taxpayer an additional opportunity to request a hearing. Timeliness of any hearing request is based on the date of filing of the NFTL.
- (5) A valid CDP lien notice issued in error can be rescinded but only if:
 - a. Within the time period for requesting a CDP hearing the Service agrees either to withdraw the NFTL or release the federal tax lien;

Note: The Notice of NFTL Withdrawal or Certificate of Release of the lien need not be filed within the time period for requesting a hearing.

 - b. The rescission is accomplished before the expiration of the time period in which the taxpayer may request a CDP hearing; and
 - c. The taxpayer has not requested a CDP hearing.

Note: The CDP lien notice is valid and the taxpayer is entitled to a hearing if requested even though the NFTL is ineffective, for example, because a recording office never receives the NFTL or because the NFTL was filed in violation of the bankruptcy automatic stay (see below).

- (6) Refer to IRM 8.22.5.4.2.4.2, Corrective Actions on Improperly Issued CDP Notices and Notices Issued in Error, for procedures on how Appeals should address an ineffective NFTL in a CDP hearing. If a NFTL violated the automatic stay, contact Insolvency to have the NFTL withdrawn. See IRM 5.9.3.5.1, Violations of the Automatic Stay.
- (7) Insolvency Groups are responsible for deciding if a lien notice may be rescinded when an NFTL filed in violation of the automatic stay is withdrawn. CEASO Groups are responsible for deciding if a CDP lien notice may be rescinded when a NFTL is withdrawn for any other reason, including because the taxpayer is in a combat zone. See IRM 5.12.9.6.6, Rescission of CDP Rights for Withdrawals, for rescission procedures. Insolvency or CEASO Group employees may contact you to find out if and when a taxpayer requested a hearing from a CDP lien notice.
- (8) Contact the appropriate CEASO Group to request withdrawal of a NFTL filed while the taxpayer is in a combat zone, part of a contingency operation away

from the taxpayers permanent duty station recuperating during a qualified hospitalization, or during the following 180 day period (section 7508 status).

- (9) If you are aware of any extraordinary issues in the case that point to not withdrawing the NFTL, let management and Headquarters know so they can help you make a case specific decision.

5.19.8.4.6
(08-05-2016)
**Collection Action During
the CDP Appeal Period**

- (1) If the taxpayer files a timely appeal during the IRC 6330 notice period, levy actions, except in jeopardy situations, levies on state income tax refunds, Disqualified Employment Tax Levies (DETL), or Federal Contractor Collection Due Process, must be suspended during the appeal period and during any further appeals to Tax Court. Levy action also must be suspended during the period in which the taxpayer has a right to request a hearing under IRC 6320 or 6330.
- (2) Levy action is only required to be suspended for the periods that are the subject of the CDP hearing for which a timely request has been filed.
- (3) Levy action can continue on tax periods not subject to the CDP hearing, provided all pre-levy notifications have been met. Levy action is only suspended for periods subject to the CDP hearing. Levy action for non-CDP periods can be taken when appropriate, such as when the taxpayer continues to pyramid trust fund tax liabilities or otherwise puts collection at risk. When it is determined that levy action for non-CDP periods during the appeal is appropriate, contact Appeals to determine if they have any new information that could affect the decision to take enforcement action.

Caution: If Appeals has determined economic hardship within the meaning of IRC 6343 or secured an installment agreement or offer in compromise, levy action is not appropriate even for non-CDP periods.

- (4) A Notice of Federal Tax Lien (NFTL) may be filed for tax periods and taxes whether or not covered by the CDP notice issued under IRC 6330.
- (5) When a taxpayer files a timely request for a CDP hearing during the IRC 6320 notice period, levy actions are not required to be suspended. However as a general rule, levy action is suspended pending the Appeals determination on the NFTL. Levy action can be taken if it is determined that collection is at risk such as when the taxpayer continues to pyramid trust fund tax liabilities. Prior to initiating levy action against tax modules that are the subject of a CDP hearing under IRC 6320, contact Appeals to advise them that levy action is planned. Determine if Appeals has new information that may affect the decision to levy. Managerial approval is required for levy under these circumstances.
- (6) In joint liability situations, where only one spouse has requested a CDP hearing, levy action can continue with respect to the spouse who has not requested a CDP hearing. This may occur in situations where the spouses are separated or divorced. Otherwise, levy action will generally be suspended for both spouses. If the hearing request was intended to cover both taxpayers, the CDP hearing request can be amended to list both spouses. The spouse whose name is added should also sign the request for a CDP hearing.
- (7) Levy action during an equivalent hearing is not required to be suspended. However, as a general rule, even when not required by statute, levy action is suspended during the Appeal period. Levy action can be taken if it is deter-

mined to be appropriate in the situation. Determine if Appeals has new information that may affect the decision to levy. Managerial approval is required for levy under these circumstances. Levy action may be appropriate if:

- Collection is at risk (CSED is within 2 years or less, the taxpayer is dissipating assets or pyramiding additional liabilities).
 - The taxpayer raises only frivolous issues.
 - The taxpayer is solely seeking to delay the collection process.
- (8) Automated levies however, such as SITLP (State Income Tax Levy Program) or FPLP (Federal Payment Levy Program) are not suspended while the equivalent hearing is pending.
- (9) Prior to initiating levy action against tax modules that are the subject of a CDP hearing under IRC 6320 or 6330, contact Appeals to advise them that levy action is planned. Determine if Appeals has new information that may affect the decision to levy. Managerial approval is required for levy under these circumstances. The levy action can be appealed under CAP while the equivalent hearing is in process on the notice periods. See IRM 5.19.8.4.16, Collection Appeals Program (CAP) Procedures. Note in the AMS Case History that collection is being pursued and the reason why.

Example: The CDP request was not timely and the case is being prepared to go to Appeals for EH. The CSED will expire within two years. After contacting Appeals and reviewing the information obtained, you determine that a levy will not cause economic hardship and your manager approves the levy. Note in the case file that the request is not a timely CDP request, the levy will not cause economic hardship, the CSED is within two years, and levy has been issued.

- (10) In a situation where a levy has been issued, and then the taxpayer files a hearing request, either for a timely CDP hearing under IRC 6320 or an equivalent hearing under IRC 6320 or 6330, determine if the levy should be released. See IRM 5.19.4.4.10, Levy Release: General Information.

Example: The taxpayer does not respond to the pre-levy notice. A continuous wage levy is issued. The ACS employee then files a Notice of Federal Tax Lien. The taxpayer receives the IRC 6320 CDP hearing notice and files a timely request for a CDP hearing. A decision needs to be made whether to release the levy. Release of levy is not required unless economic hardship is determined or Appeals determination provides for a release.

- (11) If a FPLP levy is to be released, the tax period must be blocked using TC 971 AC 061 in order to prevent the levy from being reissued. See IRM 5.19.9.4.7, FPLP Levy Release: General and IRM 5.19.9.4.2.4, Modules Systemically Blocked from FPLP.
- (12) If it is determined that the notice under IRC 6330 and notice of intent to levy was not properly mailed to the taxpayer's last known address, release the levy and re-send the notice (Input TC972/069). Proper notification under IRC 6330 is required prior to levy action.
- (13) If the levy is not released and the taxpayer indicates a need for a quick resolution, the taxpayer may request CAP or assistance from TAS.

5.19.8.4.7
(05-03-2023)
**Processing CDP and
Equivalent Hearing
Requests**

- (1) Form 12153, Request for Collection Due Process or Equivalent Hearing, or any written request for CDP or equivalent hearing received in the ACS Support/CDP Unit must be developed promptly and effectively to ensure that the taxpayers' due process rights are protected. Follow the instructions in IRM 5.19.8.4.7.5, Initial Actions, for all CDP/EH requests. CDP cases must be built and resolved with the taxpayer or forwarded to Appeals within 45 days of receipt in ACS Support.
- (2) **Quality and Timely Responses** - To ensure adherence to IRM 21.3.3.3.4, Quality and Timely Responses, and IRM 5.19.1.2, Balance Due Overview, initial contact must be made with the taxpayer either by phone or letter within 30 days of the IRS received date. If the Form 12153 or any other written request is assigned in CDP later than 30 days from the IRS received date, then the initial contact, either by phone or letter, must be made within 5 workdays of assignment in CDP. The initial contact must give the taxpayer a contact name and phone number in CDP and an expected time frame for the next contact. A copy of the letter should be maintained in the case file. Document AMS to identify the type of inquiry, phone or letter, and the time frame provided to the taxpayer. When forwarding the case to Appeals, notify the taxpayer either by phone or by letter 4473C.
- (3) You must multi-task all aspects of the process by taking all the following actions the same day: contact the taxpayer by phone or letter 3884C to acknowledge Form 12153 and request any additional necessary information, i.e., request return from files, order a Record of Accounts and update IDRS/AMS/CDPTS.

Note: If there are multiple tax periods, all must be controlled on IDRS. However, only one needs to be updated to reflect actions and follow-up dates.

Note: You may use cc: ACTONB and update all tax modules even though this is not a requirement of the IRM. Re-control all tax modules according to IRM 5.19.8.4.9, Forwarding Cases to Appeals, when sending the case to Appeals.

- (4) **Unauthorized 3rd Party** - Do not disclose any information to an unauthorized third party. If corresponding with the taxpayer, enclose the form 2848 Power of Attorney and Declaration of Representative with correspondex letter 3884C. See IRM 21.1.3.2, General Disclosure Guidelines.
- (5) **AMS History**- each action taken must be recorded on AMS in detail, with the date the action was taken, the action(s) taken, and the follow-up date. A clear history trail enables anyone that picks up your case to quickly identify what has been done on the case, and when it is time to take the next action.

Note: A case history sheet is no longer required.

- (6) **RO Assigned Cases** - If a request is received on a case that is assigned to a revenue officer (RO), notify the RO of the request by documenting the ICS system (if you have access), by secure email or by efaxing the hearing request within one business day of your initial review of the case. If the RO has had contact with the taxpayer, the RO should contact the CDP Unit to have the hearing request sent to the RO for processing to Appeals. The same procedure applies if ACS issues a CDP levy or lien notice and the case is assigned to an RO by the time the CDP request has been received.

5.19.8.4.7.1
(05-03-2023)

Determining Timeliness

- (1) Upon receipt of the Form 12153 or other written request for a CDP or equivalent hearing, determine if the request is timely. See IRM 5.19.8.4.2.1, CDP Hearing Requests - Timeliness or IRM 5.19.8.4.3, Equivalent Hearing (EH) and Timeliness of EH Requests.
- (2) Ensure that an IRS received date is stamped or noted on the Form 12153, Request for Collection Due Process of Equivalent Hearing, taxpayers' correspondence or any other documentation that is being used as the Appeals request and keep the envelope attached.

Note: When there are multiple date stamps, circle in red, the date-stamp used in determining timeliness.

- (3) Use the following steps to determine timeliness of CDP or equivalent hearing requests:
 - a. Determine the date the CDP lien notice or levy notice was mailed. If the taxpayer has attached a copy of the CDP lien notice (letter 3172), use the "file-by date" to determine timeliness. If the taxpayer has attached a copy of the CDP levy notice (e.g. LT11), use the date of the notice as the beginning of the 30-day period.

Caution: Timeliness will not be based on a POA letter LT11(NC), (formally LT12). If an LT11(NC) is attached to the CDP request, use the TC971 AC069 date to determine timeliness. If there are periods on the LT11(NC) that are not on the taxpayer's copy (LT11), (these periods will have no TC971 AC 069 on the tax module) they will not be included in the CDP hearing. An LT11 must be generated for the periods on the POA copy but not on the taxpayer's copy if a hearing is desired for them.
 - b. If the taxpayer did not include a copy of the letter 3172, obtain a copy of the Letter from the Automated Lien System to determine the "file-by date".
 - c. If the taxpayer does not include a copy of the CDP levy notice (LT11, LT73, CP92, CP242, CP90, CP297 or CP77), use the TC971 AC069 date to determine timeliness. You may also obtain a copy of the notice from the Control-D System.

Note: When a CDP levy notice is sent, a future date (a Monday) is assigned by which the notice will be sent. This notice is annotated on IDRS/MF by a TC971 AC069, along with the notice date. Then the CDP notice will be printed and mailed, at the latest, the Saturday before the Monday date on the CDP notice. If the date the notice is delivered to the U.S. Postal Service for delivery by certified mail is actually later than the date on the notice, then the date of the certified mailing is the date from which the 30-day period is measured.

- d. If the request for hearing is received before the date on the notice, obtain the certified mail list to determine the date on which the notice was mailed. See IRM 5.19.8.4.7.1.1, Certified Mail Listing for instructions on requesting certified mail listings.
- e. If the request for hearing is postmarked on or prior to the end of the period for requesting a hearing, then generally there shouldn't be any question as to timeliness.

Note: If the postage of the hearing request is stamped by postage meter, the date indicated on the metered mail stamp is also acceptable.

- f. Use the IRS received date if the CDP request is received within the period for requesting a hearing.
- g. If the IRS received date is after the time frame for filing a timely CDP hearing request, use the postmark date. Keep the envelope in which the hearing request was mailed attached to the hearing request.
- h. If the deadline of the 30th day is a Saturday, Sunday or federal holiday and the postmark is the next business day, then it is timely.
- i. If the postmark date is illegible or the envelope is missing, subtract (3 days for regular mail / 7 days for overseas, unless you can document why another date was used), from the IRS received date.
- j. If the postmark date is illegible or the envelope is missing and there is no IRS received date, use the signature date.
- k. Timely mailed constitutes timely filed if the taxpayer's request for a CDP or equivalent hearing is correctly addressed to the IRS office listed in the CDP Hearing Notice. If the CDP or equivalent hearing request is sent to another address on the notice (even if it is not the correct office for submitting the CDP request), timeliness is based on the date the request is mailed. However, if the address does not appear on the notice, or if it is determined that the taxpayer received erroneous instructions from an IRS employee resulting in the request being sent to the wrong office, use the postmark date to that office to determine timeliness.
- l. If the hearing request is filed within the time period prescribed by IRC 6320 or 6330, or the one-year period for equivalent hearings, the request is timely.
- m. If after the above steps, the request for hearing under 6330 is still untimely, obtain the certified mail list within two weeks of your receipt of the Form 12153. Request the certified mail listing if the taxpayer has not sent a copy of the LT11, CP92, CP242, CP90, CP297 or CP77, if it is needed. The two week time frame should give you enough time to work the case to the point that you know whether or not the certified mail listing will be needed. If there is no question that the request is timely, then there is no reason to request the listing. See IRM 5.19.8.4.7.1.1, Certified Mail Listing for instructions on requesting certified mail listings.
- n. If after the above steps the request for a CDP or equivalent hearing under IRC 6320 is still untimely, check the Automated lien System to determine the date by which the taxpayer must file his/her request. This is indicated as the "respond by date".
- o. A taxpayers' request for a CDP or equivalent hearing can be submitted via facsimile (FAX). The transmission date will be the received date. The transmittal sheet should be retained along with the hearing request. If the deadline of the 30th day is a Saturday, Sunday, or federal holiday and the facsimile transmission date is the next business day, consider the request timely.
- p. To determine if a request for equivalent hearing under section 6320 is within the one-year period, check the Automated Lien System to determine when the NFTL was printed. Using the print date, add 10 business days plus one calendar year to determine the date by which the taxpayer must file his/her request.
- q. To determine if a request for equivalent hearing under section 6330 is within the one year period, add one calendar year to the mailing date of the CDP notice. Use the certified mail date if necessary.

5.19.8.4.7.1.1
(05-03-2023)

Certified Mail Listing

- (1) The delivery status of certified mailings, which may also include an image of a signature if received, are maintained on the Certified Mail Repository (CMR). The CMR is a part of the Notice Delivery System (NDS) which is maintained by the Correspondence Processing Service (CPS) located at the Detroit Computing Center (DCC). CDP Coordinators may obtain certified mail listings by taking the following steps:
 - a. Request the information from the Certified Mail Repository (CMR) using the CMR Template (an Excel spreadsheet) and forward it to Centralized Print CMR in DCC.
 - b. CMR in DCC queries the database, locates the information and sends it to Control-D (the response will be furnished within 72 hours).
 - c. The requesting CDP site looks in Control-D to find and print the information they requested.

Note: The CMR contains current certified mail information from August 2007.

- (2) The Certified Mail Lists stamped by the U.S. Postal Service are forwarded to and maintained by the campus. Requests for copies of certified mail lists pertaining to CDP notices sent by ACS are processed by the campus ACS Support.

5.19.8.4.7.1.2
(12-17-2019)

**CDP Hearing Requests
Hand Delivered to
Taxpayer Assistance
Centers (TAC)**

- (1) Taxpayers must make an appointment before delivering a CDP hearing request to a TAC. See IRM 21.3.4.2.4, Taxpayer Assistance Center (TAC) Appointment Service.
- (2) If a taxpayer hand carries a CDP hearing request to an IRS employee in a local TAC, the request is timely if received no later than:
 - 30 days from the date of the levy notice.
 - The "must file by" date on Letter 3172.
- (3) The TAC employee that receives the hearing request via hand delivery shall date stamp and initial the request and then fax or send it via express mail (including envelope and all supporting documents) to the appropriate campus ACS Support CDP Coordinator within 24 hours.
- (4) A hearing request that is mailed to a TAC office will not be considered properly filed.

5.19.8.4.7.2
(05-03-2023)

**Multiple TC971 AC 069s
and Determining
Timeliness**

- (1) Taxpayers are only given CDP rights once; therefore, there should not be multiple TC971 AC069 on a tax module for the same assessment. The earliest posted TC971 AC 069 will be used for determining timeliness. If the request is not timely, the following must be verified before using the earliest posted TC971 AC 069:
 - a. Posting of a TC971 AC 066, 067 or 068 to IDRS indicating delivery status.
 - b. Recordation of the USPS received date on the certified mail list. This is done by requesting a copy of the certified mail list. See IRM 5.19.8.4.7.1.1, Certified Mail List and IRM 5.19.6.6, Certified Mail Process, for additional information.
 - c. If any of the above cannot be verified, use the next TC971 AC069 to determine timeliness.

Note: CP 92s are not sent return receipt requested; therefore, you will not be able to verify the posting of a TC 971 AC066, 067 or 068. CP92s are sent certified mail and a TC971 AC069 will post.

- (2) If a subsequent assessment posts to an account between the time of the most recent and an immediately preceding TC971 AC069, assume that the most recent TC971 AC069 is only for the additional assessment. In this instance, if the hearing request is timely based on the most recent notice, then the taxpayer is only entitled to a CDP hearing on the subsequent assessment. If not timely then the taxpayer will be given an equivalent hearing on the original and additional assessments.
- (3) The TC971 AC069 can take up to three weeks to post.
- (4) If a hearing request is received and the TC971 AC069 has not posted, access Control-D to get an image of the notice.

5.19.8.4.7.3
(05-03-2023)
Perfection

- (1) If the CDP or equivalent hearing request is timely, next determine if the request needs to be perfected. If it needs to be perfected, follow the procedures in IRM 5.19.8.4.2.2, Perfection of Timely CDP Hearing Requests, and IRM 5.19.8.4.3.2, Perfection of Timely Equivalent Hearing Requests. If perfecting information is needed from the taxpayer, use the following time frames:
 - Make one phone call attempt and request the information be sent within 15 calendar days. If the taxpayer has the information during the call, offer them the option to submit it by EEFax or Document Upload Tool (DUT) if available.
 - If no phone contact on first attempt, send letter 3884C requesting a response within 15 days of the letter.
 - Allow additional time for the taxpayer to respond if the taxpayer demonstrates that his/her lack of response was due to extenuating circumstances, such as being in the hospital or out of the country during that period. Get managerial approval if the extension is more than 15 days past the original deadline.
 - If the taxpayer does not perfect the hearing request with a valid taxpayer identification number, the request does not meet the requirements for a processable CDP or equivalent hearing request. Unprocessable requests are not referred to Appeals. If the taxpayer perfects the CDP request after this time period, it may qualify for an equivalent hearing.

Note: A Form 12153 or other written request without a valid taxpayer identification number (TIN) is considered an unprocessable request. It should not be input to the CDP Tracking System until a valid TIN is received or located on IRS computer systems.

- All missing information obtained during the perfection process should be added to the AMS history.

5.19.8.4.7.4
(05-03-2023)
Signature Requirements

- (1) A CDP or equivalent hearing request cannot be processed unless it is signed. The hearing request must be signed by the taxpayer or his/her authorized representative. To be an authorized representative, including a spouse, a person must have a valid Form 2848, Power of Attorney and Declaration of Representative on file with the IRS.

- If the person signing the Form 12153 or its equivalent for CDP or equivalent hearing on behalf of the taxpayer is the spouse or someone that does not have a Power of Attorney (POA), contact the taxpayer and request the filing within 15 calendar days, a written, signed statement affirming that the request was originally submitted on the taxpayer's behalf. If the affirmation is not filed within 15 calendar days of the request, the CDP request will be denied with respect to the non-signing taxpayer. On a joint liability, if only one spouse's signature is present, contact the taxpayer to clarify whether the request is for both spouses and if so, to obtain the missing signature. Allow additional time if the taxpayer demonstrates that his/her lack of response was due to extenuating circumstances.
- If the CDP hearing request is filed timely but it is unsigned, contact the taxpayer by phone in an attempt to secure the missing signature via EEFAX or DUT if available. If unable to secure the signature via EEFAX or DUT, the taxpayer will be given 15 calendar days to perfect the CDP hearing request. If the taxpayer perfects the CDP hearing request within this time period, treat the CDP hearing as filed timely. When returning the Form 12153 for signature, circle the IRS received date to show that it has been returned to the taxpayer. If the taxpayer does not perfect the hearing request with a signature, it does not meet the requirements for a processable CDP or equivalent hearing request. If the taxpayer or authorized representative perfects the CDP hearing request after this time period, it may qualify for an equivalent hearing.

Note: An unsigned Form 12153 or other written request, or one with an invalid signature is considered an unprocessable request. It should not be input to the CDP Tracking System until a valid signature is received.

Note: The regulations do not authorize a digital or electronic signature with a CDP request. If a request includes a digital or electronic signature, contact the taxpayer to secure the taxpayer's signature. See IRM 8.22.5.2.4.1, Non-Processable Hearing Request

Note: An electronically signed, printed or stamped signature is not acceptable on Form 2848 or Form 8821. For additional information see , IRM 21.3.7.5.1(4), Essential Elements for Form 2848 and Form 8821.

(2) Take the following steps for an unprocessable request:

- Update ACS / AMS comments and the case history sheet with contact attempts and results.
- Remove CDP case information from ACS Notes and take the next appropriate action on ACS, **including levy**, and move to the appropriate function.
- Close your IDRS control base (e.g. C#,nosignature,C).
- Send the unsigned copy of Form 12153 without a valid signature or TIN with any other documentation to files using TC290 for .00 with appropriate blocking series.
- If multiple tax periods are subject to the appeal, input the TC290 for .00 on the most current CDP period.

(3) If the timely CDP hearing request does not need to be perfected, or the request is timely because it is perfected within 15 days, then suspend the CSED. IRM 5.19.8.4.10, Suspension of Collection Statue of Limitations.

- (4) If the request for CDP hearing is untimely, determine if it qualifies as a timely request for an equivalent hearing.
- (5) If the CDP or equivalent hearing request is untimely, IRM 5.19.8.4.3.1, Separate Timeliness Determinations
- (6) If the taxpayer was not issued a CDP notice, contact the taxpayer and advise them of their rights such as those available through CAP. If it is determined that the CDP notice the taxpayer received is invalid or was issued in error, refer to IRM 5.19.8.4.4, Invalid CDP Levy Notices and Rescinding a Notice of Intent to Levy and Notice of a Right to a Hearing, and IRM 5.19.8.4.5, Invalid CDP Lien Notices and Rescinding Letter 3172(DO), Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320.

5.19.8.4.7.5
(05-03-2023)
Initial Actions

- (1) The following actions are required as indicated below. Actions a. and b. shall take priority on all cases including **all cases** being placed in the unassigned queue (or wall).
 - a. ACS actions (S8): within 2 workdays of receipt in ACSS. See IRM 5.19.6.11.3 (1), Reassigning on ACS and IRM 5.19.6.11.5 (1), Collection Due Process (CDP) Mail.
 - b. CDP Tracking System (CDPTS) input: within 10 workdays of receipt in ACSS (processable requests only)

Note: Sometimes CDP work must be transshipped from one site to another to balance workloads. In these situations, the date stamp of the site that receives the transshipped work will be used to base this 10-day requirement.

- c. Case assignment and control base
- d. Case actions

(2) **ACS Actions -**

- If the case is not already in function "S8", reassign the case to function "S8". Cases in function S8 are CDP cases being built for Appeals. Only a CDP case worker has the authority to work these cases or move them from the S8 function.
- Input the following in the ACS Notes area:

| If | Then |
|-------------------------------------|---|
| CDP issue is both levy and lien | Input: ***CDP, DO NOT Levy/ Lien, MFT and tax period(s)*** |
| CDP issue is only levy or only lien | Input: ***CDP, DO NOT Levy, MFT and tax period(s)*** |

- In the AMS History area, input: Form 12153 or written request and the IRS and ACSS received dates.
- Add any new phone numbers provided in the correct telephone number field on the AMS entity screen.

- (3) **CDP Tracking System (CDPTS) -** Input the case into Stage 1 on the tracking system (processable requests only) so that a TC 971 AC 275 or TC 971 AC 278 will post to IDRS for each module included in the CDP hearing. The date to use with stage 1 is the date that any of the IRS offices which are listed in

CDP hearing notice receives the hearing request. The Collection Due Process Tracking System (CDPTS) is IDRS based with a web interface for input and is used to track CDP/EH requests:

- Receipt in ACSS.
- Forwarding of case to Appeals.
- Closure when case is resolved in ACSS.

When the case is input on the CDP Tracking System, stage 1, the system will generate a TC971 AC275 if the request is a timely CDP or a TC971 AC278 if it is an Equivalent Hearing. If the request involves a timely levy, a TC971 AC275 **and** a TC971 AC630 will be generated. This combination will block the modules from selection by the Automated Levy Programs (ALP): Federal Payment Levy Program (FPLP), State Income Tax Levy Program (SITLP), Alaska Permanent Fund Dividend Levy Program (AKPFD) and the Municipal Tax Levy Program (MTLP).

Note: Fifty-two days after a CDP notice is generated, the modules included in the notice will be subject to selection by the ALP program for levying if a TC971 AC275 and TC971 AC630 is not posted. For this reason, it is important that cases are placed onto the CDP Tracking System within 10 workdays of receipt in ACSS.

- (4) **Case Assignment** - Assign the case to a CDP caseworker. CDPTS will establish a new control base using status code "A", Category Code "TPCI", and Activity Codes as follows:

| CDP Case Activity Codes: | Description: |
|--------------------------|---|
| CDPLV -- | for timely hearing request received in response to a CDP levy notice |
| CDPEHLV -- | for untimely hearing requests received in response to the CDP levy notice (Equivalent Hearing, Levy) |
| CDPLN -- | for timely hearing requests received in response to letter 3172DO Notice of Federal Tax lien (NFTL) |
| CDPEHLN -- | for untimely hearing requests received in response to letter 3172DO notice of lien (Equivalent Hearing, Lien) |
| CDPLV/LN -- | timely levy notice and timely notice of lien on same tax period |
| CDPEHLV/LN -- | untimely levy notice and notice of lien on the same period |
| CDPCHKSTD | for an untimely request sent to Appeals for a Separate Timeliness Determination |
| RJLV-- | request under retained jurisdiction for the CDP levy notice |

| CDP Case Activity Codes: | Description: |
|--------------------------|---|
| RJLN-- | request under retained jurisdiction for the lien |
| RJLV/LN-- | request under retained jurisdiction for the CDP levy notice and notice of lien on the same period |

Example: C#,CDPEHLV,A,TPCI,employee#,IRS rec'd date of F12153

If the case is not being assigned to the employee who is inputting the case into CDPTS, but will remain in the unassigned queue, the employee inputting the case into CDPTS will input the IDRS control number for the teams unassigned queue in the box for Employee Number.

| Campus: | Unassigned Queue Number: |
|---------|--------------------------|
| CSC | 0271200003 |
| FSC | 1073300003 |
| KCSC | 0976500003 |
| PSC | 0568600003 |

Caution: Do not hit cancel when the pop up message asks if you want to open a control base. Always click: Ok. Do not close the generic control which was created when the case was originally batched prior to the case being assigned to a CDP TE for processing.

- (5) **Control Base** - Once the case is assigned to a CDP employee, take the following actions to open, close or assign the control base.

| If | Then |
|--|--|
| A control base has not been established on CDPTS | Follow your local guidance to assign the case in CDPTS or to yourself and proceed to step 3 |
| The control base has been established on CDPTS to the unassigned queue | Use command code ACTON to reassign the CDPTS control to yourself |
| On all cases | Close the generic control base which was established when the case was originally batched to AMS |

- (6) **Case Actions** -

- Review the case for completeness.
- Contact the taxpayer to offer to work towards a resolution and for any needed clarification of the request (e.g., all boxes checked) or to obtain missing information.

- If unable to reach the taxpayer by phone, or if not attempted, send letter 3884C to request clarification, missing information, and include any forms that need to be completed (e.g. Form 656, Request for Offer in Compromise, Form 433F, Collection Information Statement, Form 433-A, Collection Information Statement for Wage Earners and Self-Employed or Form 433-B, Collection Information Statement for Businesses, etc.). Give the taxpayer a 15 - day time frame for responding.

Note: If corresponding with a Power of Attorney (POA) listed on the CAF/RAF file, just list the forms needed. Do not enclose the forms because most POAs already have them or prefer to obtain them on-line.

- Order any necessary documents from files.
- Order a Record of Accounts if the taxpayer needs a record of the account to see what has happened on the account.
- Release any outstanding levy, if not already done, except for tax periods that have already been subject to a CDP hearing. See IRM 5.19.8.4.6, Collection Actions During the CDP Appeal Period. In this instance, you will have to reissue the levy only to include the non-CDP tax periods. If a levy is not in place, you can issue one for non-CDP tax periods. Be sure to follow levy actions per IRM 5.19.4.3.12, Issuing Levies.
- If the taxpayer raises doubt as to liability issues (e.g., audit assessments, AUR or self-assessed liabilities) or requests relief from liability (e.g., innocent spouse or interest abatements) or claims that a frivolous filer penalty should not have been assessed, clearly document this on AMS. Request the underlying assessment documents from files/AUR once to include with the case before sending it to Appeals.

Note: Do not order the administrative file if the doubt as to liability is based on frivolous arguments. Do not order the administrative file if the assessment resulted from SFR or ASFR. Do not order the administrative file if the taxpayer does not want to work with Collection to resolve the issue.

Note: When the taxpayer contests TFRP liability, Appeals will first review the ICS history to determine if L1153 was hand-delivered or mailed. If the L1153 was hand delivered, the ICS history entry would serve as a contemporaneous recording and prima-facie evidence and the taxpayer will not be able to challenge the liability at the CDP hearing. If the L1153 was mailed, Appeals will request a copy of it and the certified mail listing from Technical Service / CEASO. Appeals must verify that the taxpayer received the L1153.

- Update AMS as actions are completed.
- (7) Use the following time frames when requesting information (other than for perfection) from the taxpayer:
- Make one phone call attempt and ask taxpayer to send requested information within 15 calendar days. If the taxpayer has the information available during the phone call, offer them the option to submit it by EEFax or Document Upload Tool (DUT). For more information on DUT see IRM 5.19.1.2 , Balance Due Overview.
 - If no phone contact on first attempt, send letter 3884C, requesting a response within 15 calendar days of the letter.

- If no response to the phone call or letter, continue case building for Appeals and notify the taxpayer using letter 4473C.

Note: It is important to promptly forward CDP cases to Appeals. Avoid continued attempts to contact the taxpayer that only result in delays in case building and forwarding to Appeals.

- (8) Offer to work with the taxpayer to resolve the issue(s). If the taxpayer agrees to work with you, then proceed with the necessary actions and document the case file. Agreement with the taxpayer at this stage will expedite the Appeal process, not prevent it. If the taxpayer is satisfied with the resolution you reach together, offer the taxpayer the opportunity to withdraw the CDP request. Advise the taxpayer of their rights and the consequences of withdrawal (see IRM 5.19.8.4.8 (5), Withdrawal of a Request for a CDP or Equivalent Hearing Request). If the taxpayer does not agree to work with you, continue case building if necessary and promptly forward to Appeals.
- (9) Follow these steps for CDP cases involving Collection Information Statements (CIS).

| IF | AND | THEN |
|---|--|--|
| If a CDP hearing request is received and it includes a completed CIS or is provided as you are working the case. | A resolution can be reached with the taxpayer. | <p>a. Verify the CIS per IRM 5.19.1.2.6.4, Financial Analysis, Verification and Substantiation.</p> <p>Note: When the request involves CNC, refer to IRM 5.19.1.2.6.4.1, Financial Analysis, Verification and Substantiation - All Employees and IRM 5.19.1.2.6.4.3, Financial Analysis, Verification and Substantiation - ACS, ACSS and CSCO Employees for more information.</p> <p>b. Note the results on Form 12153B and AMS.</p> <p>c. Ask the taxpayer if they would like to voluntarily withdraw the CDP/EH request, and inform of the consequences per IRM 5.19.8.4.8, Withdrawal of a Request for CDP or Equivalent Hearing Request.</p> <p>d. If the taxpayer withdraws the request, take the actions required to implement the resolution and close the case.</p> <p>e. If the taxpayer does not withdraw the request, forward the case to Appeals.</p> |
| If a CDP hearing request is received and it includes a completed CIS or it is provided as you are working the case. | A resolution can't be reached. | <p>a. Verify the CIS per IRM 5.19.1.2.6.4, Financial Analysis, Verification and Substantiation.</p> <p>b. Note the results on Form 12153-B and AMS as part of your case building.</p> <p>c. Forward the case to Appeals.</p> |

| IF | AND | THEN |
|--|---|---|
| If a CDP hearing request is received and it includes a completed CIS or it is provided as you are working the case. | There is no response from the taxpayer to your request for clarification or documentation. | <ol style="list-style-type: none"> Verify the CIS per IRM 5.19.1.2.6.4, Financial Analysis, Verification and Substantiation. Document the non-response to your request for additional information. Note the verification results on Form 12153-B and AMS as part of your case building. Forward the case to Appeals. |
| If a CDP request is received where the taxpayer is requesting a collection alternative which requires a CIS, but it is not included. | There is no response from the taxpayer to your request for CIS per IRM 5.19.8.4.7.5 (5) & (6), Case Actions . | <ol style="list-style-type: none"> Document the non-response on Form 12153-B and AMS. Forward the case to Appeals. |
| If a CDP request is received that includes a completed CIS. | The balance involved exceeds ACS authority or requires research on third party reporting systems. | <p>The CDP Coordinator will:</p> <ol style="list-style-type: none"> Determine the collection field office/RO Group that has jurisdiction where the taxpayer is located. Forward the CIS on an ARI, Form 2209 to the appropriate RO Group for verification by secure email and explain why ACSS is requesting it (exceeds authority, requires research on third party reporting systems (Accurint) etc. Request that they return the verification results to the CDP Coordinator within 45 days. Follow up in 45 days if no result is received from field collection. Maintain a copy of the email to field collection until you have received the CIS results and forwarded it to Appeals. <p>The TE will:</p> <ol style="list-style-type: none"> Document on AMS and Form 12153B that the CIS has been sent to field collection for the verification. Include a copy of the ARI in the case file. Send Letter 4473C to the taxpayer informing that the case has been forwarded to Appeals and that Collection may contact them if clarification of their Form 433F is needed. Forward the CDP case to Appeals. |

| IF | AND | THEN |
|---|---|---|
| If a CDP request is received that does not include a completed CIS. | The balance involved exceeds ACS authority or requires research on third party reporting systems. | <p>a. Send letter 4473C to the taxpayer requesting that they submit a completed CIS to Appeals within 30 days. Input the Appeals address and enclose Form 433F. Inform the taxpayer that the case is being forwarded to Appeals and that Collection may contact them if clarification of their Form 433F is needed.</p> <p>b. Document AMS and Form 12153-B. Forward the case to Appeals.</p> |

Note: Appeals will accept as verified any Collection Information Statement (CIS) that collection previously reviewed or had the opportunity to review within 12 months of receipt in Appeals. Appeals will consider corrections or revisions to the CIS on AMS.

- (10) If the taxpayer claims the balance owed was discharged in bankruptcy, ACS Support will contact the Insolvency Unit for technical advice if necessary. If not discharged and the taxpayer is unwilling to reach an alternative resolution (e.g., IA/CNC, etc.) and withdraw the hearing request, ACS Support will build the case for Appeals. You will also need to verify the validity of the CDP levy notice or Letter 3172, if Bankruptcy was filed.
- (11) If a CDP levy notice was issued during the bankruptcy automatic stay, it is treated as void and invalid. Send letter 3790C and input TC 972 AC 069, to reverse each TC971 that has already been input for the invalid notice. The input date for each TC972 must be the same as the TC971 it is reversing. In contrast, if a CDP Notice of Federal Tax Lien (NFTL) was issued during the bankruptcy automatic stay, it is valid. If a CDP NFTL was filed in violation of the automatic stay, contact Insolvency to have the CDP NFTL withdrawn and the CDP lien notice rescinded, if possible. See IRM 5.9.5.9.1.1, Rescinding NFTL CDP Rights.
- (12) In an effort to expedite case processing, ACS Support will liaison with Exam, AUR, ASFR and Accounts Management to arrange priority handling of CDP cases with issues within their jurisdiction.
- (13) If a document is needed from files/AUR, ACS Support will request the document once. Per IRM 3.5.61.1.7.3, Priority Pull Listing, CDP will be given the same expedite pull from Files as court cases and Taxpayer Advocate cases, if CDP/RRA 98 is noted in the remarks area of the document request. If the document is not received within 21 calendar days, ACS Support will note in the case file the date the document was requested and that it was not received, then complete case building and send the case to Appeals. A second request will not be done. If the document is received in ACS Support after the case has been sent to Appeals, recharge the document to Appeals and forward it to them for association with the CDP case. Note AMS comments when and where the document was forwarded.

Note: ACS Support will request the return from files only when the taxpayer raises doubt as to liability (e.g., audit assessments, Innocent Spouse or claims that a Frivolous Filer Penalty should not have been assessed).

- (14) If the taxpayer includes an Innocent Spouse (IS) claim Form 8857 or Offer in Compromise (OIC) Form 656 with their CDP hearing request, inform the taxpayer that Compliance can assist them with the IS or OIC. Tell the taxpayer that the request will be forwarded to the IS or OIC area for processing. Inform the taxpayer that if the requested relief on the IS or OIC is not granted, they may appeal that decision as part of their hearing.

Note: Do not ask the taxpayer to withdraw the CDP hearing request prior to the consideration of an OIC or IS claim. The taxpayer may withdraw the CDP request if it is entirely voluntary on the taxpayer's part.

- a. When an Innocent Spouse (IS) claim form is received with the CDP request:

| IF | THEN |
|---|--|
| If the taxpayer includes an Innocent Spouse (IS) claim Form 8857 with the hearing request | <ol style="list-style-type: none"> 1. Within 5 days of receipt in the CDP Unit, fax the Innocent Spouse claim Form 8857 to the Cincinnati Centralized Innocent Spouse Operation (CCISO) at 855-233-8558, ATTN: Innocent Spouse Coordinator. Indicate prominently on the transmittal sheet: "IS claim received as part of a CDP request". Maintain a copy of the IS claim in the CDP case file. 2. Document on AMS and the Form 12153-B that an IS request was received with the CDP and the date the IS form was received and forwarded to CCISO. Note: The W&I Division requires that Forms 8857 received by other functions be forwarded as soon as possible to CCISO but no later than 10 working days from receipt. 3. Complete the building of the CDP case file and then forward it to Appeals. When you forward the case, indicate on the cover sheet that the taxpayer is requesting IS relief and that the claim is being considered by CCISO. |

- b. When an Offer In Compromise (OIC) is received with the CDP request:

| IF | THEN |
|---|---|
| If the taxpayers' hearing request includes an Offer In Compromise (OIC) request Form 656. | <ol style="list-style-type: none"> 1. Forward the OIC request Form 656 to the appropriate location as specified in SERP under the Who/Where tab for Offer In Compromise (OIC) Centralized Service Center Locations. 2. Document AMS, and the Form 12153-B that an OIC request was received with the CDP and the date the OIC was received and forward it to the campus OIC location. 3. Complete building the CDP case file and forward it to Appeals. When you forward the case, indicate in the cover sheet that the taxpayer is requesting an OIC and that the campus OIC is considering the request. |
| The taxpayer has already filed an OIC with COIC. | Forward the CDP Request to Appeals and fully document AMS. |

- c. When IS or OIC is indicated on the CDP request but the corresponding form is not included:

| IF | THEN |
|---|--|
| The taxpayer indicates request for IS or OIC on the request but does not include the Form 8857 Innocent Spouse (IS) claim or Form 656, Request for Offer in Compromise (OIC). | <ol style="list-style-type: none"> 1. Send the taxpayer the appropriate form and document AMS. 2. Forward the case to Appeals. 3. If the taxpayer returns the completed form to ACSS, forward the completed form to CCISO or COIC for processing with the notation on Form 3210: "IS claim received as part of a CDP request" or "OIC received as part of a CDP request." Document AMS. Send a copy of the Form 8857 or the Form 656 to the Settlement Officer assigned to the Appeals case, if known, or to the APS office to which the CDP case was sent for association with the CDP file. |

- (15) In the following situations, no attempt to work with the taxpayer is needed. However, the guidance from IRM 5.19.8.4.7, Processing CDP and Equivalent Hearing Requests, regarding quality and timely responses must be followed, unless specifically exempt, per IRM 21.3.3.2, What is the Definition of Correspondence? - Policy Statement P-21-3 Exclusion List. Document the applicable circumstance in the AMS history.

- The taxpayer indicates that they only want to work with Appeals.
- Constitutional or frivolous issues are raised.

- The taxpayer is not seeking to resolve the issue but using the CDP process as a method for delay.
 - Bankruptcy was filed after the CDP levy or lien notice was sent.
 - The trust fund assessment (MFT55/17) is being challenged (not the collection of).
 - Cases with a TC 914, TC 916 or TC918 (CID) where the TP raises concern over the CID issue. If the TP is not addressing the CID issue, treat as a regular CDP case. Be sure to annotate Form 12153B, Referral Request for CDP Hearing from ACS Support, that a TC914, 916 or 918 is present; if there was no contact; and which Fraud Detection Center input the TC 916 or 918. See IRM 5.19.1.5.13, Criminal Investigation Division (CID) Indicators on Balance Due Cases.
- (16) In other situations, the taxpayer may be willing to work with ACS Support to resolve the issue even after the taxpayer has requested a hearing with Appeals.
- When resolution is reached prior to commencement of the CDP hearing, the taxpayer can voluntarily withdraw the request for a CDP hearing. See IRM 5.19.8.4.8, Withdrawal of a Request for CDP or Equivalent Hearing Request. Advise the taxpayer that withdrawal of the request will prevent the taxpayer from obtaining judicial review of the collection action/resolution with respect to the tax periods included in the hearing request.
 - When the resolution involves a Direct Debit Installment Agreement (DDIA), inform the taxpayer they may voluntarily withdraw the hearing request, and that doing so within fifteen days (indicate specific date) will allow ACSS to expedite the DDIA processing. If received, input the DDIA. If not, proceed to the following step.
- Note:** Inform the taxpayer of the consequences of withdrawal and taxpayer rights as per IRM 5.19.8.4.8.
- If resolution is reached and the taxpayer does not withdraw the request, document in AMS history and forward the case file to Appeals.
 - Whenever discussions with the taxpayer reach an impasse, document the AMS history and forward the request promptly to Appeals.
- Note:** Any OIC Form 656 or Innocent Spouse claim Form 8857 received should be forwarded to the appropriate function according to the instructions in the chart under IRM 5.19.8.4.7.5, paragraph (13) above.
- If after 45 days from receipt of the CDP hearing request, resolution of taxpayer's issues seems likely, secure managerial concurrence to continue working with the taxpayer towards resolution up to 90 days after receipt of the hearing request. The taxpayers' willingness to continue to pursue an agreement and the managers' concurrence to work the case beyond the initial 45-day period must be clearly documented on AMS history and the case file history. If resolution is not expected or cannot be reached within the next 45 days, forward the case to Appeals.
 - Processing of a case beyond 90 days should be avoided. If processing of a case exceeds 90 days, management notation of the reason the delay was not prevented must be documented on AMS prior to forwarding to Appeals.

Note: If at 90 days an agreement is imminent, with managerial approval, the case may be held if only waiting for the return of final agreement documents already sent to the taxpayer in order to secure the agreement.

5.19.8.4.7.6
(12-17-2019)

**Disaster Procedure for
ACS Support Regarding
CDP / EH Requests**

- (1) If a CDP / EH request is received from a taxpayer that resides in a Federal Emergency Management Agency (FEMA) declared disaster area that is missing some necessary information, attempt to contact the taxpayer by phone for the information.

Note: If the taxpayer responds to a notice was issued after the date the disaster began but prior to the systemic posting of the -O freeze on the account, rescind the notice per IRM 5.19.8.4.4, if the issue involves a Notice of Intent to Levy (LT11), and the taxpayer has not requested a hearing.

- (2) If contact is made with the taxpayer, follow normal processing procedures.
- (3) If no response is received from the call, send out the appropriate correspondence advising the taxpayer of the missing information. Be sensitive to the fact that the taxpayer may be affected by the disaster situation and avoid using enforcement language or tone.
- (4) Control the case on IDRS and include the following information: ACS Support IDRS control number, FEMA disaster number, CDP/DISTR/TPCI.

Example: 02266001731 CDP/DISTR TPCI

- (5) Document actions on AMS.

Example: "Call made to taxpayer with no response, letter sent to taxpayer in California disaster area #4344-DR."

Give 15 days for a response.

- (6) If no response is received regarding the request for the missing information, suspend the case with a follow-up date that coincides with the expiration of the disaster declarations or other date as directed by management.

Example: California wildfire is designated FEMA disaster #4344-DR on 11/08/18 and the disaster declaration expires 4/30/19. A form 12153, Request for CDP/EH is received from a taxpayer prior to the disaster. Taxpayer forgot to sign the Form or did not check the EH box to request an equivalent hearing. Make outcall to the taxpayer to secure the missing information. If no response is received by the follow-up date, document AMS: "Call made to taxpayer with no response, letter sent to taxpayer in California disaster area #4344-DR. Suspend the case until 4/30/19 or further instructions from management. "

- (7) Refer to IRM 5.19.1.5.8, Disaster / Emergency Relief, for additional information.

5.19.8.4.7.6.1
(09-02-2009)

**Timeliness of CDP/EH
Requests from
Taxpayers Residing in
Disaster Areas**

- (1) The time period for requesting a hearing is extended until the disaster period end date for taxpayers residing in a FEMA declared disaster area.
- (2) When the hearing request timeliness is impacted by a disaster situation, clearly note on AMS how the request received date was determined.

5.19.8.4.7.7
(03-16-2018)

**Frivolous
CDP/Equivalent Hearing
Requests**

- (1) Background: IRC Section 6330, Notice and Opportunity for Hearing Before Levy, requires that the taxpayer provide a reason for the requested hearing. In addition, if the taxpayer provides a frivolous basis for requesting a hearing, then that portion of the request is to be treated as if the hearing request was not submitted (disregard).
- (2) IRC 6702(b) provides for a penalty of \$5,000 if any portion of a request for a hearing under IRC 6320 (relating to notice and opportunity for hearing upon filing of notice of lien) or IRC 6330 (relating to notice and opportunity for hearing before levy) is a specified frivolous position (see IRS Notice 2010-33) or reflects a desire to delay or impede the administration of federal tax laws.
- (3) ACS Support - CDP Unit Procedure: Follow routine procedures in IRM 5.19.8.4.2.2, Perfection of Timely Filed CDP Requests, or IRM 5.19.8.4.3.2, Perfection of Timely Equivalent Hearing Requests, to ensure the hearing request is processable, it is logged in and assigned, then follow the procedures below.

| IF | THEN |
|---|--|
| A hearing request is received that is based on a frivolous position identified by the IRS Notice 2010-33. | <ul style="list-style-type: none"> • Forward the request to Appeals (per IRM 5.19.8.4.9, Forwarding Cases to Appeals.) • Notate action on AMS. |
| A hearing request is received that reflects a desire to delay or impede the administration of federal tax laws by listing a reason that, while not one of the published specified frivolous positions, is a disagreement listing moral, religious, political, constitutional, conscientious or similar grounds. | <ul style="list-style-type: none"> • Forward the request to Appeals (per IRM 5.19.8.4.9). • Notate action on AMS. |
| A hearing request is received that contains a non-frivolous issue such as hardship or innocent spouse claims in addition to frivolous, delaying or impeding reasons. | <ul style="list-style-type: none"> • Forward the request to Appeals (per IRM 5.19.8.4.9). • Notate action on AMS. |

- (4) Where the hearing requests lists issues which are frivolous, delaying or impeding reasons, Appeals will issue Letter 4380 giving the taxpayer 30 days

to either perfect the request (e.g., provide a non-frivolous reason) or withdraw the request to avoid the \$5,000 IRC 6702(b) penalty. They must amend or withdraw the request in writing.

- (5) If the taxpayer does not take corrective action, Appeals will disregard the hearing request and return the case to the originating Collection office. Appeals will issue Letter 4381 and close the case with new closing code "13"
- (6) In instances where the hearing request lists BOTH frivolous/delaying and non-frivolous issues (also known as "hybrid requests"), Appeals will disregard the frivolous/delaying portion of the hearing request and conduct the hearing only on the non-frivolous issue. Appeals will issue Letter 3846 which gives the taxpayer 30 days to withdraw the frivolous/delaying position to avoid the \$5,000 IRC 6702(b) penalty and schedules a conference for the non-frivolous issue.
- (7) After the hybrid hearing, Appeals will issue a Notice of Determination or Decision Letter addressing the non-frivolous issues and will include a statement that the taxpayer also raised frivolous/delaying or impeding arguments.
- (8) Appeals will not recommend assessment of the IRC 6702(b) penalty. However, they will identify when the request meets the criteria for penalty assessment and return the hearing request as a "disregarded" hearing request. Appeals will return the case to ACS Support/CDP with the following:
 - a. Form 5402, Appeals Transmittal and Case Memo. It will include a statement that Appeals has determined that the issues raised in the CDP/EH request were either a "specified frivolous position," identified by the IRS in Notice 2010-33, or a disagreement listing moral, religious, political, constitutional, conscientious or similar grounds that reflects a desire to delay or impede the administration of federal tax laws.
 - b. A copy of the taxpayer's frivolous CDP/EH request.
 - c. A copy of Letter 4380 or L3846, the letter Appeals issued soliciting a withdrawal of taxpayer's "specified frivolous position" or desire-to-delay position.

Note: Appeals will send the taxpayer an L3846 (and provide a copy in addition to the L4380) if the taxpayer responds to the L4380 and provides a legitimate reason but fails to withdraw the frivolous or desire-to-delay position.

 - d. A copy of the Notice of Determination or Decision Letter (for hybrid requests).
 - e. Copy of case history notes documenting discussions with the taxpayer about withdrawal of the frivolous or desire-to-delay positions, or withdrawal of the entire hearing request.
 - f. Copy of any written communications received from the taxpayer as a result of the withdrawal solicitation in either L4380 or L3846.
- (9) ACS Support - CDP Procedure: When a hearing request is disregarded by Appeals due to frivolous/delaying arguments, it will be forwarded to the Frivolous Return Program (FRP).

| IF | THEN |
|---|---|
| The hearing request is returned as a disregarded hearing request that Appeals has identified as meeting the criteria for assessment of the \$5,000 penalty. | <p>Have the \$5,000 penalty assessed:</p> <ul style="list-style-type: none"> • Prepare Form 3210, Document Transmittal. • Route to: Ogden Compliance Services, Attn: FRP, M/S 4390, Sr. Technical Advisor, EFax# 855-246-4886, 1973 N. Rulon White Blvd., Ogden, UT 84404. • List the TIN, Name Control, MFT55, Period (if multiple periods, use the latest period on the hearing request) and the Penalty Reference Code 543 which is used for IRC 6702(b) penalties. • Include items listed in (8) above. • Have a manager sign form 3210 to document approval of the assessment. • Fax the package to EFax# 855-246-4886, ATTN: FRP, Sr. Technical Advisor. • Notate action on AMS. |

- (10) ACS Support - CDP Procedure: When a portion of a hearing request is disregarded by Appeals due to frivolous/delaying arguments:

| IF | THEN |
|---|--|
| Notice of Determination or Decision Letter is received that addresses non-frivolous issues and states the taxpayer has raised frivolous/delaying arguments. | <ul style="list-style-type: none"> • Take actions as instructed per Form 5402 to address all non-frivolous issues. • Prepare and forward the documentation for penalty assessment as per (9) above for the tax periods pertaining to the frivolous/delaying arguments. • Notate actions on AMS. |

- (11) Maintain a copy and control of Forms 3210 and follow-up with Ogden FRP if the acknowledgement of the Form 3210 is not received within 15 days.

Note: Assertion of the penalty is appropriate in all instances where the criteria for penalty assessment are met. If you identify any instance where assertion of the penalty does not seem warranted despite the criteria having being met, submit the matter to HQ attention.

- (12) Under IRC 6702(d), taxpayers may apply for a reduction of the penalty if certain criteria are met. This process is administered by the Frivolous Return Program (see IRM 25.25.10).

5.19.8.4.7.8
(08-27-2010)
Deceased Taxpayer

- (1) If a CDP or EH request is received and it is determined that the taxpayer has died since submitting the request,
- Contact the Estate and ask the executor (or administrator / personal representative) if they want to continue or withdraw the request. Request that a new hearing request or withdrawal be submitted, signed by the executor of the estate within 15 days.
 - When the response is received, process the hearing request or withdrawal following routine procedures.
 - If no response is received, consider the request invalid and close the case.
- (2) See IRM 8.22.6.11, Decedent, for further general information and information regarding POAs.

5.19.8.4.7.9
(05-03-2023)
**Identity Theft
Procedures**

- (1) When a taxpayer is a victim of Identity Theft, they might submit a CDP request to halt collection action for which they are not responsible. The Appeals Officer must address all issues raised by the taxpayer in the CDP Notice of Determination. Appeals must review the entire CDP case including the ID theft claim before deciding whether Appeals has jurisdiction to consider the ID theft claim. When the taxpayer indicates ID Theft has occurred with their CDP request follow the instructions in the tables below:
- (2) When an Identity Theft Affidavit claim Form 14039 is received with the CDP request:

| IF | THEN |
|---|---|
| The taxpayer includes a complete and legible Form 14039 with their CDP hearing request. | <ol style="list-style-type: none"> Input a TC971 AC522 with the appropriate Tax Admin Source code that reflects the tax year of the identity theft incident. See IRM 25.23.2.4.4, Initial Allegation or Suspicion of Tax-Related Identity Theft - IMF Identity Theft Indicators. Also refer to IRM 25.23.9, BMF Identity Theft Processing, for guidance on the Identity Theft Tracking Indicators (TC971/972 AC522). Complete the building of the CDP case file and then forward it along with the ID Theft Claim to Appeals. |

| IF | THEN |
|--|---|
| <p>The taxpayer includes an incomplete or illegible Identity Theft Affidavit claim Form 14039 with their CDP hearing request:</p> <p>Note: See IRM 25.23.4.18 , Communicating with Taxpayers.</p> | <ol style="list-style-type: none"> 1. Make one phone call attempt to obtain missing information. 2. If unable to reach the taxpayer by phone, send Letter 5064C informing the victim of the information needed to submit a complete and legible claim. Provide a specific date to return the information (15 days from the date the letter is sent). <p>Note: Use the sender's correct address - not necessarily the Last Known Address on IDRS/ACS. See IRM 25.23.2.3.7, When to Update the Victim's Address.</p> <ol style="list-style-type: none"> 3. Ensure TC971 AC522 PNDCLM is input for each tax period involved. |

- (3) When Identity Theft is indicated on the CDP request but the corresponding form is not included:

| IF | THEN |
|--|--|
| <p>The taxpayer indicates they are a victim of ID Theft but does not include a Form 14039.</p> | <ol style="list-style-type: none"> 1. Check the Correspondence Image System (CIS) to see if Form 14039 is available. 2. If the case is on CIS, print out a copy and follow procedures above in IRM 5.19.8.4.7.9(2) first row of chart. |

| IF | THEN |
|---|--|
| The taxpayer indicates they are a victim of ID Theft but does not include a Form 14039, and the case is NOT on CIS. | <ol style="list-style-type: none"> 1. Make one phone call attempt to obtain the missing information. 2. If unable to reach the taxpayer by phone, send letter Letter 5064, C / SP informing the victim of the information needed to submit a complete and legible claim. Provide a specific date to return the information (15 days from the date the letter is sent). Note: Use the sender's correct address - not necessarily the Last Known Address on IDRS/ACS. IRM 25.23.2.3.7, When to Update the Victim's Address. 3. Ensure TC971 AC522 PNDCLM is input for each tax period involved. |

- (4) When the taxpayer does or does not respond with the requested information:

| IF | THEN |
|---|---|
| The taxpayer responds with the Form 14039 or requested information. | Follow procedures above in IRM 5.19.8.4.7.9(2). |
| If the taxpayer does NOT provide the Form 14039 or requested information. | Input a TC972 AC522 NORPLY for each tax period involved. Work the CDP case following normal procedures. |

5.19.8.4.8

(05-03-2023)

Withdrawal of a Request for a CDP or Equivalent Hearing Request

- (1) A taxpayer that reaches a satisfactory resolution with Collection after filing a request for a CDP or equivalent hearing can withdraw their request. The decision to withdraw the request lies fully with the taxpayer. The date for a withdrawal is the date received by the Service.
- (2) Form 12256, Withdrawal of Request for a Collection Due Process or Equivalent Hearing, is used to withdraw a request for a hearing on timely filed CDP cases only (Faxes are acceptable). Use the following procedures for requesting/securing Form 12256:
 - a. Make one phone call in an attempt to secure the withdrawal. Request the form be returned within 15 calendar days.

- b. If no contact is made by phone, send letter Form 4474C with Form 12256 and a return envelope.
- c. If the withdrawal is not received within 15 calendar days (21 days, if using a Correspondex letter), ACS Support will complete the case building process and forward the CDP case to Appeals.
- d. Document on AMS the attempts to secure the withdrawal.

Note: On joint liabilities, if both taxpayers signed the Form 12153, then both must sign the withdrawal (Form 12256).

- (3) Some taxpayers may believe they need to file Form 12153 and full pay the liability at the same time, but do not agree with the balance owed. In other instances, credit offsets full pay the account, but the taxpayer does not agree with the liability that has been full paid by the offset. If a resolution is reached, request a withdrawal from the taxpayer.
- (4) The taxpayer is not required to submit and sign a form to withdraw an equivalent hearing request. The taxpayer can verbally withdraw their equivalent hearing request. If the matter is resolved and the taxpayer does not want to go to Appeals, document the case history and take the necessary closing actions.
- (5) If the taxpayer chooses to withdraw Form 12153 or other written CDP hearing request, inform the taxpayer of the following consequences and rights:
 - The taxpayer gives up their rights for a CDP hearing.
 - The taxpayer does not receive the issuance of an Appeals determination letter.
 - Retained jurisdiction by appeals is not applicable.
 - The taxpayer gives up their right to seek judicial review by the Tax Court.
 - Suspension of levy action and statute of limitations for collection is no longer in effect.
 - The taxpayer does not give up any other appeal rights such as an appeal under CAP.
 - When an Equivalent Hearing request is withdrawn, a taxpayer may not request a second hearing on the same tax periods. However, CAP will be available.
- (6) The suspension of the collection statute expiration date (CSED) ends on the receipt date of the withdrawal request.
- (7) If a withdrawal is secured, do not forward the case to Appeals.
- (8) If the CDP request was timely, input a TC520 per IRM 5.19.8.4.10, Suspension of the Collection Statute Expiration Date (CSED), and a TC521 using the IRS received date of the withdrawal to extend the CSED for the duration of the CDP request.
- (9) Update AMS History with the date the withdrawal was secured (date received by the service), and all agreed to actions. Input the following in the ACS Notes area, ***CDP/WITHDRWNmmdyyyy LN or LV, MFT and tax period(s), e.g. 30/201512, 01/201603, 55/201706*** .
- (10) Update the CDP Tracking System to stage 12. This action will document the withdrawal, generate the TC971 AC 276/279, and allow the case on CDPTS to archive.

- (11) Close your IDRS control base and send Form 12153, Form 12256 and all documentation to files, using TC290 for .00 and appropriate blocking (see Document 6209, ADP and IDRS Information).
- (12) If a withdrawal is received after the case has been sent to Appeals, send the withdrawal to Appeals.
- (13) A taxpayer may withdraw their request for an equivalent hearing at any time before a hearing is commenced. Although a written request from the taxpayer is preferred, it is not required to be in writing. Document any requests for withdrawal of an equivalent hearing whenever the taxpayer does not provide a written request.

5.19.8.4.9
(05-03-2023)
Forwarding Cases to Appeals

- (1) Forward to Appeals a well-organized and fully documented case. It will serve as the basis for Appeals determination on whether the requirements of the Internal Revenue Code (IRC) and administrative procedures have been met. Paperless CDP/EH cases will be forwarded daily by uploading the pdf case file to the Appeals SharePoint site using the *Electronic Case Receipts (ECR)* page. The upload procedures are as follows:

| Step | Description | Notes/Information |
|------|--|---|
| 1 | ACSS scans in and names the case files | <p>After scanning, files should be named using the following naming convention: (Three-Letter Acronym for Campus ID)_(Four Character Name Control)_(Last Four of TIN)_(Hearing Type).</p> <p>Example: FSC SMIT XXXX EHLV.</p> <p>Reminder: See IRM 5.19.8.4.9(5), Forwarding Cases to Appeals, for what documents should be generally included with each case.</p> |
| 2 | Naming convention for multiple files | <p>If more than one hearing type is included in a taxpayer request that is received by ACSS on the same day (such as for a CDP lien and CDP levy combination case) two files will be needed, named as in the following example:</p> <p>Example: FSC SMIT XXXX EHLV, FSC SMIT XXXX EHLV (2). If additional hearing types are identified and also received on the same day, follow the same naming convention using (3), (4), etc.</p> |

| Step | Description | Notes/Information |
|------|---|---|
| 3 | ACSS uploads new CDP/EH case to Share-Point | After the case is approved for transfer to Appeals. ACSS separately uploads each new case to Appeals via the Electronic Case Receipts page. No Form 3210 Transmittal is used. |

- (2) If a CDP/EH request includes so many documents or pages that scanning will result in a pdf file size that prevents its upload to ECR, the request will be processed and forwarded to Appeals in paper format. Paper cases must be shipped to The Independent Office of Appeals at the address indicated in the *Appeals Case Routing Page*. APS receives CDP cases, assigns them to Settlement Officers or Appeals Officers and tracks them while they are in Appeals. When an Appeals determination is made on the CDP case, or a decision is made on the equivalent hearing case, APS is responsible for initiating the actions to implement the determination. When the decision or determination involves collection action (levy/lien), APS will return the case to the ACSS CDP Unit for necessary action.
- (3) Send letter 4473C or call the taxpayer to inform them that their case has been forwarded to Appeals.
- (4) Maintain copies of CDP / EH paperless cases in ACS Support until a response regarding case determination is received from Appeals and the final actions are taken. If a paper case, maintain copies of the following documents:
 - Form 12153
 - Form 12153B
 - Copy of envelope
 - Copy of document indicating proof of received date
- (5) Form 12153B, Referral Request for CDP Hearing from ACS Support, is designed to assist ACS Support users in preparing a case for referral to Appeals. It is used by Appeals personnel in their initial screening and processing actions of CDP cases and is required with all CDP/EH cases going to Appeals. Managerial review and approval is required.

Caution: Any narrative statement included on the Form 12153B must be limited to a neutral list of documents and neutral statements regarding actions taken and documented in the case history, without any further discussion regarding the strengths and weaknesses of the taxpayer's appeal. The manager must ensure this requirement is met and that no prohibited ex parte communications are included before approving transmittal of the case to Appeals. For additional information refer to IRM 5.1.9.5, Communications with Appeals.

Note: Transmittals that include prohibited ex parte communications need to be shared with the taxpayer at the time the case is sent to Appeals.

- (6) Information needed in the case file for Appeals:
 - Forms 12153, 12153B, original returns, plus any correspondence or forms completed by the taxpayer.

- Copy of LT11, LT73, CP90/297, CP92 or CP77 if returned by the taxpayer. If not, request a copy from the taxpayer during your contact attempt. If not received within the timeframe you specified, obtain a copy of the notice from the Control-D system. If the notice cannot be located on Control-D, obtain a copy of the Certified Mail Listing from the Certified Mail Repository.
- Copy of Letter 3172, Notice of Federal Tax Lien, if returned by the taxpayer. If not, provide a copy from the Automated Lien System (ALS).
- Print of EFTAD if the request includes a Form 433D or the taxpayer has recently defaulted a DDIA or has proposed an IA collection alternative.
- Information on any levy that is still outstanding and what tax periods are involved.

Note: Document 11349, RRA Case File Tabs are no longer needed.

Reminder: For ALP cases with a TC910, TC916, or TC918(CID), annotate on the Form 12153B which TC is involved. If a TC916 or TC918 is involved, identify which Fraud Detection Center input the transaction (see IRM 5.19.1.5.13, Criminal Investigations Division (CID) Indicators on Balance Due Cases). Additionally, be sure to annotate if the case was treated as “no contact”. IRM 5.19.8.4.7, Processing CDP and Equivalent Hearing Requests.

(7) Form 3210, Document Transmittal, must be included with paper cases to Appeals listing the following information:

- Last four digits of the Taxpayer(s) TIN.
- Taxpayer(s) Name control.
- MFTs and Tax Period(s).
- That the request is for a CDP or Equivalent Hearing.

Note: Form 3210 is not needed for paperless cases.

(8) If the TC520 is needed, the manager must ensure it was input correctly. See IRM 5.19.8.4.10, Suspension of the Collection Statute Expiration Date (CSED).

(9) All Collection sourced CDP/EH cases to Appeals now go to the Holtsville APS. When the CDP or Equivalent Hearing case is forwarded to Appeals, re-assign its IDRS control base to the Holtsville Appeals Account and Processing Support (APS) site as follows:

Example: C01,2APPLS,M,TPCI

- All cases to Appeals go to the Holtsville APS using entry code: 6619500001.

Caution: Do not change the IRS received date.

Note: Use OFP code 810-64400, taking a count of volume and hours, for the process up to this point (CDP Front-end).

(10) Update CDPTS to Stage 3 (Transfer to Appeals).

(11) Notify the taxpayer that the case has been forwarded to Appeals by sending letter 4473C.

- (12) Issue(s) raised by the taxpayer after the case has been forwarded will be addressed by Appeals, including obtaining any files pertaining to the taxpayer's appeal and any relevant information needed from the taxpayer.

5.19.8.4.9.1
(05-03-2023)

CDP/EH Case Follow-up

- (1) Appeals provides case received and closed status data from the Appeals Centralized Data System (ACDS) to HQ Campus Tax Policy analysts by uploading the following weekly reports to the Business Objects Enterprise (BOE) site:

- CDP Cases Received in Appeals Report
- CDP Cases Closed in Appeals Report

Note: Both reports are sorted by Primary Business Code (PBC) and forwarded to the respective ACSS-CDP site Coordinators.

| IF | THEN |
|---|---|
| The case is not listed on the CDP Case Received Report by the second weekly report or if a hard copy case is shipped and there is no acknowledgement Form 3210 received within that time. Note: Form 3210 only pertains to hard copy cases. | Follow-up on the case receipt status by researching ACDS and if necessary, contact the Appeals Processing Service (APS) . Caution: If it is determined that a shipment has been lost or cannot be located, alert your manager to report it per the procedures in IRM 10.5.4, Privacy and Information Protection, Incident Management Program. |

- (2) Most CDP/EH cases are in paperless format and transmitted to Appeals through the Electronic Case Receipts (ECR) page. Review of the Cases Received Report may be used to verify Appeals receipt of cases.
- (3) Generate the CDPTS Time in Stage Report to determine the amount of time cases have been in stage 1 and not yet moved to Stage 3.

| IF | THEN |
|---|--|
| The case is still in ACSS inventory, (stage 1). | Promptly resolve if possible or complete the case and forward to Appeals. |
| The hearing request was withdrawn. | Update CDPTS to stage 12. <ul style="list-style-type: none"> • If a TC 520 cc 76/77 was added to the module, input a TC 521 cc 76/77 as of the date of the signed withdrawal. |

| IF | THEN |
|---|--|
| If the hearing request was added to the CDPTS in error. | Delete the module. <ul style="list-style-type: none"> If a TC 520 cc 76/77 was added to the module, request reversal using TC 522 cc 76/77. |
| If the hearing request was sent to Appeals. | Check the CDP Cases Received in Appeals report and ACDS if necessary to confirm receipt of the case in Appeals. |
| If Appeals has no record of receiving the case. | Re-send the CDP/EH hearing request case to Appeals. |

- (4) Monitor the CDP Cases Closed in Appeals report to identify closed cases and closed cases where no corresponding Form 5402 (backend case) has been received. Review the report to ensure all backend CDP cases are received, worked or accounted for and the CDPTS updated to Stage 14. Follow-up with Appeals within 14 days to obtain any missing Forms 5402. If a case is shown on the Closed in Appeals Report but ACS Support CDP has not received a Form 5402, follow-up with the APS that closed the case.
- (5) If ACS Support CDP has not received disposition on a case in Appeals within one year, follow-up if necessary, by contacting the Appeals Account Resolution Specialists (AARS) at (559) 233-1267. The AARS handle inquiries for every type of case; open, unassigned, assigned, closed, and not yet in Appeals.

5.19.8.4.9.2
(02-15-2022)
S8 Processing

- (1) The S8 inventory contains Collection Due Process (CDP) and Equivalent Hearing (EH) cases. Only the tax examiners that are designated to work CDP/EH cases are authorized to remove cases from, take actions on, or work cases in the S8 inventory.
- (2) S8 is where CDP/EH cases are maintained while the issues are being worked by the CDP Units or in Appeals. The total time a case is in S8 may extend over several months particularly if it is not resolved in the CDP Unit and is forwarded to Appeals.
- (3) Review the cases in S8 in order to determine if actions have been taken during the proper stage and follow up as required. Take actions and refer to the CDP Coordinator when needed. Notate AMS comments, input ACS action codes and the appropriate OADT to reflect the next follow up depending on the case stage. Monitor continually through closure of the case.
- (4) Charge time to OFP code 810-64500.

5.19.8.4.10
(05-03-2023)
**Suspension of the
Collection Statute
Expiration Date (CSED)**

- (1) The statute of limitations is suspended from the date the Service receives a timely filed request for a CDP hearing to the date the taxpayer's withdrawal is received by the Service, the date the determination from Appeals becomes final, or if a timely appeal is made to the Tax Court, until the date the Tax Court decision becomes final. The CSED is suspended even if the account is full paid, as long as the taxpayer does not agree with the offset/payment that full paid the account.

- a. The date the determination from Appeals becomes final is the date that the period within which the taxpayer could appeal to the Tax Court expires, if the taxpayer does not exercise his/her right to seek judicial review. A taxpayer generally has 30 days from the CDP notice of determination to appeal to the Tax Court, but has 90 days to appeal the spousal defense determination under IRC 6015 and 180 days to appeal the interest abatement determination under IRC 6404.
 - b. If the taxpayer timely commences the appeal process to the Tax Court, the date the Tax Court decision becomes final is upon expiration of the time for seeking review or reconsideration.
 - c. If 90 days is not remaining on the period of limitations when the determination becomes final, additional time is tacked on the period of limitations to allow for this 90 day period.
- (2) Determine if the collection statute (CSED) needs to be suspended. The collection statute is suspended only when a taxpayer files a timely request for a CDP hearing. The taxpayer has one opportunity to request a CDP hearing for the taxable period and unpaid tax which is the subject of the lien filing or prelevy notice. The CSED is not suspended on equivalent hearing cases.

Example: A taxpayer receives a 6330 CDP notice on 03/31/2019 for Form 941 taxes for period ended 12/31/2018 while the account is in ACS. The account is transferred to Field Collection. A Form 941 tax liability for the subsequent quarter is received. On 6/15/2019, the revenue officer issues a 6330 notice for the 3/31/2019 Form 941 taxes and includes the 12/31/2018 period on the notice. The taxpayer files a request for a CDP hearing on 06/30/2019 and includes a copy of both notices. The taxpayer would be entitled to receive the following:

- 941 for 12/31/2018—An equivalent hearing, no suspension of the collection statute.
 - 941 for 03/31/2019—A CDP hearing, collection statute is suspended.
- (3) When the CDP collection statute suspension occurs at the same time but differs from other applicable collection statute suspensions, e.g., those under the innocent spouse provisions of IRC 6015 or bankruptcy, the latest suspension period controls.
- (4) **Determining the TC520 date:**
- a. The TC520 date needs to reflect the beginning date of the statute suspension period, which is usually the IRS received date of the hearing request, unless this date is after the 30 days on a CDP request that is post marked timely.
 - b. If the 30th day is a Saturday, Sunday or federal holiday and the postmark is for the next business day after Saturday, Sunday or federal holiday, then use the date of the next business day after the Saturday, Sunday or federal holiday as the TC 520 date.
 - c. If the IRS received date is after the 30 days but the postmark date is on or before the 30 days, the TC 520 date should be the postmark date.
 - d. If the postmark date is illegible or the envelope is missing, subtract 3 days for regular mail and 7 days for overseas (unless you can document in the case file why another date was used), from the IRS received date and use this as your TC 520 date.

- e. If the postmark date is illegible or the envelope is missing and there is no IRS received date, use the signature date as your TC 520 date.

Note: If the taxpayer did not mail the CDP request to the correct address for submitting the CDP notice, but sends it to another address that is displayed on the notice, the TC520 date is the date the request is mailed.

Note: A request that is hand-carried to a local Taxpayer Assistance Center (appointments are required for CDP requests) will be timely if delivered within the 30 day period during which taxpayers may request a hearing. See IRM 5.19.8.4.7.1.2, CDP Hearing Requests Hand Delivered to Taxpayer Assistance Centers (TAC).

- (5) If the collection statute is to be suspended:

Note: Ensure that the case is on CDPTS before input of the TC520.

- a. Input a TC 520 for each module subject to the collection statute suspension.
- b. Use TC520 cc76 for lien CDP cases (also used when the lien and levy notices were issued together and the taxpayer files a hearing request on both).
- c. Use TC520 cc77 for levy CDP cases.

Note: The TC 520 prevents levy by automated levy programs on timely filed requests and places the module in status 72.

- (6) As of January 1, 2001 the CDP CSED is systemically calculated and updated based on the TC520 and TC521. Both the TC520 and the TC521 need to be input after 1/1/2001 for the systemic CSED update to occur. If 90 days is not remaining on the statute of limitations when the determination becomes final, the statute of limitations is extended to equal 90 days. The exception to the systemic update of the CSED are IMF accounts involving joint income tax liabilities where only one spouse has requested the hearing (e.g. divorced/separated taxpayers). For MFT 30 accounts, input the appropriate IMF CSED TIN indicator with the TC520. The indicators are as follows:

- “P”: CSED suspended for the primary TIN spouse.
- “S”: CSED suspended only for the secondary TIN spouse.
- “B”: CSED suspended on both primary and secondary TINs.

- (7) The systemic CSED calculation can be done on cases with the TC520 input before 1/1/2001 if:

- a. A TC521 is input to close this pre 2001 TC520.
- b. A new TC520 is input after 1/1/2001, using the original TC520 date.
- c. A new TC521 is input after 1/1/2001 to close the post 2001 TC520.

- (8) Consider mirroring the tax modules when needed to ensure each spouse's independent CSED is tracked independently. For procedures on mirroring see: IRM 5.19.1.6.7 Mirroring Accounts, IRM 5.19.1.6.7.1 Front End Mirror Assessments Process for IA Closures and IRM 5.19.1.6.7.2 Back End Mirror Assessments Process for IA Closures.

5.19.8.4.11
(08-27-2010)

The Appeals Process

- (1) The hearing is held by the Office of Appeals. It is conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax shown on the CDP notice. However, the taxpayer may waive this requirement. For an explanation of what constitutes prior involvement, see IRM 8.22.5.4.1 , No Prior Involvement.
- (2) The taxpayer will be offered an opportunity for a hearing at the Appeals Office closest to the taxpayer's residence, their place of employment, or in case of a student, their school.
- (3) To the extent practicable, a hearing under IRC 6320 shall be held in conjunction with a hearing under IRC 6330.
- (4) The Appeals officer is required to obtain verification that the requirements of the Internal Revenue Code or administrative procedure have been met. Appeals will rely on the information in the case file or will seek clarification of items that appear to be incomplete within the case file.
- (5) During the appeal process, the taxpayer may raise at the hearing any relevant issue relating to the unpaid tax or the proposed levy, including:
 - Appropriate spousal defenses.
 - Challenges to the appropriateness of Collection actions.
 - Offers of collection alternatives, which may include the posting of a bond, the substitution of other assets, and Installment Agreement, or an Offer in Compromise.
- (6) The taxpayer may also raise challenges to the existence or amount of the underlying tax liability for any tax period if the taxpayer did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability.
- (7) An issue may not be raised at the hearing if:
 - The issue was raised and considered at a previous hearing under IRC 6320 or in any other previous administrative or judicial proceeding; and
 - The taxpayer seeking to raise the issue participated meaningfully in such hearing or proceeding.

5.19.8.4.12
(02-03-2014)

Appeals Determination

- (1) The Appeals determination will take into consideration the following:
 - The verification that the requirements of the Internal Revenue Code or administrative procedure have been met,
 - The issues being raised, including collection alternatives, and
 - Whether any 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.
- (2) Appeals Officers will operate quasi-judicially and will not direct, request or suggest any enforcement actions be taken. Appeals will not be involved in any investigative actions to assist Compliance in the development of its cases. This is to maintain Appeals independence and increase taxpayers confidence in Appeals impartiality and fairness.
- (3) For a timely filed CDP hearing request, the taxpayer will receive a Notice of Determination letter that explains the taxpayer's right to petition the Tax Court within 30 days of the date of the letter (within 90 days with respect to a

spousal defense determination under IRC 6015 or within 180 days with respect to a interest abatement determination under IRC 6404.

- (4) For an Equivalent Hearing, the taxpayer will receive a decision letter. In an Equivalent Hearing the decision by Appeals is final, except as it relates to certain spousal defenses under IRC 6015 (b), (c) or (f) if the taxpayer is challenging the timeliness of the CDP request.
- (5) In both the Appeals Notice of Determination and decision letter, Appeals will provide clear information regarding any agreement reached with the taxpayer, any relief given, and any necessary actions required by ACS Support. If the tax liability is upheld or the enforcement action is valid, the letter will so state even if the Appeals officer decides to provide the taxpayer a different collection alternative. The letter will also set forth specific ramifications should the taxpayer not comply with the terms of the agreement.
- (6) Appeals will generally follow the Service guidelines for Collection as set forth in the IRM. IRC 6330(c)(3)(C) requires the Service to balance tax collection needs with the legitimate concerns of the taxpayer that any Collection action be no more intrusive than necessary. Additionally, Appeals may take hazards of litigation into consideration when making its determination.

5.19.8.4.12.1
(05-03-2023)
**ACSS Working
Collection Information
Statements Obtained by
Appeals**

- (1) When a Collection Information Statement (CIS) is obtained by Appeals, it may be sent to the ACSS-CDP Unit where the case originated for verification. On these occasions, Appeals will notify the taxpayer that they are forwarding the CIS to collection (ACSS) for further review and that ACSS might contact them for additional information if necessary.
- (2) The CIS along with a Form 2209, Appeals Request for Investigation (ARI), will generally be transmitted to the CDP Coordinator by EFax.

Note: Appeals will use the Form 433F, Collection Information Statement, if provided by ACSS with the referral. Appeals will accept as verified any CIS that is forwarded with a CDP referral since collection previously reviewed or had the opportunity to review it. Appeals will consider a CIS current if it is dated within 12 months of the receipt of the CIS in Appeals. In the event that Appeals requests a CIS from the taxpayer, Appeals will provide Form 433F or A to the taxpayer to complete.

- (3) The CIS pdf files will be received in the ACSS-CDP Unit's mailbox.
 - a. The CDP Coordinator will access their EFax mailbox for the cases.
 - b. The cases will be counted, controlled on IDRS/AMS, assigned and forwarded to the tax examiners (TE) for working.

Note: The CDP Coordinator will set up a specific mailbox for each TE where the CIS cases will be forwarded.

- (4) The TE will work the CIS's following guidelines in the chart under IRM 5.19.1.2.6.4, Financial Analysis, Verification and Substantiation.
 - a. If additional information or clarification is needed, the TE will attempt one phone call to the taxpayer (TP).
 - b. If the taxpayer can't be reached, send letter 3884C requesting the additional information giving the TP a specific date (15 calendar days) to

- respond. Include a copy of the letter with the Form 2209 and verification results when it is returned to Appeals.
- c. When the information is received, complete the CIS verification, document the results on AMS and forward a copy of the results and the Form 2209 via email to the CDP Coordinator.
 - d. If no response is received within 15 days, document on AMS the taxpayer's non-response as the results of the attempted verification on the case and forward a copy of the letter and documentation of the results to the CDP Coordinator by email.
- (5) These cases will be worked within 45 days of receipt in ACSS.
 - (6) ACSS will refer the ARI to Field Collection if the case exceeds ACS authority or requires skills using outside third party reporting systems such as Accurant. The CDP Coordinator will:
 - a. Determine the collection field office / RO Group that has jurisdiction where the taxpayer is located.
 - b. Forward the ARI, Form 2209 and the CIS to the collection field office / RO Group manager by secured email (cc: Appeals) and explain why ACSS is requesting they provide the verification (exceeds authority, requires Accurant information, etc.). Request that they forward the verification results to Appeals within 45 days and to cc the ACSS CDP Coordinator.
 - c. Update AMS comments. Include the collection field contact/location where ARI was sent. Maintain a copy of the email to collection until Appeals has closed the case.
 - (7) The CDP Coordinators will keep track of all incoming and outgoing cases. They will forward the completed cases back to Appeals by encrypted email.
 - (8) This work will be charged to OFP code 810-64430.

5.19.8.4.13
(05-03-2023)
**After the Appeals
Determination**

- (1) In a CDP hearing case, Appeals Processing (APS) will suspend the case for 60 days after issuing the Notice of Determination to the taxpayer. If the taxpayer contacts us in response to the Notice of Determination, we can assist the taxpayer in carrying out the determination of Appeals, (i.e., Installment Agreement). However, no enforcement action can be taken until the determination is final. If no Tax Court petition is filed, the Notice of Determination is final. The suspension period will be longer if the CDP hearing included a spousal defense determination under IRC 6015 or an interest abatement determination under IRC 6404.
- (2) In an equivalent hearing the decision is final when Appeals issues its decision letter except as it relates to certain spousal defenses under IRC 6015 or interest abatement claims under IRC 6404.
- (3) Once the hearing is final, Appeals Processing Services (APS) will perform the following closing activities:
 - a. At least once a week APS will provide ACS Support (ACSS) via EEFax, a copy of Forms 5402 on all closures. Forms 5402, along with a Form 3210, will be provided back to the specific ACSS site from which the cases originated. ACSS will determine which 5402s sustain collection, and then will implement those actions.

Note: If Forms 5402 are received at the wrong CDP site, forward them to the correct site via EEFax. Notify the APS site of the incorrect addressing.

- b. Input TC 521 on all closures.
- c. Input of all actions to carry out alternative resolutions.
- d. Maintain an electronic copy of the case on ACDS.

- (4) Appeals (APS) will input TC971 AC 277 if it is a CDP request or a TC971 AC 280 if it is an equivalent hearing request. These action codes indicate when the hearing request is closed in Appeals.

5.19.8.4.13.1
(08-05-2016)
Tax Court Appeal

- (1) After Appeals makes its determination in a CDP hearing, the taxpayer may, within 30 days, petition the Tax Court (90 days for innocent spouse and 180 days for interest abatement).
- (2) To allow time for court petitions, Appeals holds cases for an additional 30 days (60 days after issuance of the Notice of Determination).

5.19.8.4.13.1.1
(08-27-2010)
Post Petition Reviews

- (1) While the Tax Court case is pending, the Counsel attorney may determine that an issue should be reviewed by Collection. This may occur, for example, when there is a substantial change in the taxpayer's circumstances since the CDP hearing or the taxpayer did not respond to Appeals during the CDP hearing due to illness or travel. The taxpayer is now offering a viable collection alternative which would resolve the case.
- (2) Counsel may request review or consideration of a proposed installment agreement or possible currently not collectible determination. Counsel will inform Collection of any deadlines imposed by the court on the Service's consideration of the collection alternative, and for seeking any continuances necessary for adequate review. The CDP Coordinators will give these requests priority.
- (3) Counsel will contact the centralized OIC site when the issue involves review of an OIC. For other collection alternatives, Counsel will contact CEASO to determine the appropriate collection office. If the CDP appeal originated from an ACSS case and does not need field consideration, it will be referred to the appropriate CDP coordinator for review and action. During the review the CDP Coordinator will contact the taxpayer and attempt to resolve the issue.
- (4) After the review is completed and if a resolution is reached, document all details of it. If a resolution could not be reached, document the reasons why.

Example: If an installment agreement is secured, provide the payment terms. If it is determined that the account is not collectible, provide a copy of the Form 53. If full payment is available, notify counsel of its collectability.

- (5) If the Tax Court case is settled based on the collection alternative reached by collection, Counsel will return the case to Appeals. If Counsel obtains a Stipulated Decision with a waiver of the 90 day appeal period, Counsel will return the case immediately to Appeals. If the Stipulated Decision has no waiver language, Counsel will hold the case 100 days. Counsel will provide information regarding the collection alternative to allow Appeals to complete the back-end process.

5.19.8.4.14
(05-03-2023)

**Working Cases Returned
From Appeals for
Back-End Work**

- (1) Cases are worked and determinations are made by Appeals or Settlement Officers (AO/SO). The Appeals Account and Processing Support (APS) sites - Fresno APS, Memphis APS or Brookhaven APS are centralized operations responsible for taking the necessary actions (such as: installment agreements, Direct Debit Installment Agreements (DDIA), CNCs, and adjustments) to ensure the final determinations are implemented. Appeals determinations may also include actions to be taken by the ACS Support/CDP Units. This is referred to as the CDP "back-end" work. ACS Support / CDP must complete back-end work within 30 days of receipt.
- (2) The campus Appeals Processing Services (APS) will send to the ACS Support CDP Units a copy of Forms 5402 on all cases with determinations requesting collection actions (lien/levy) be sustained and for determinations resulting in alternative resolutions. APS will take actions as follows:
 - **Alternative Resolution** cases - APS will implement determinations that grant the alternative resolution (installment agreement, DDIA, CNC etc.). They will monitor the case to ensure actions have been posted, update the Appeals Centralized Data System (ACDS), close the IDRS control base and forward the closed hard copy case to files.

Note: APS will forward a copy of the DDIA Form 433D along with the Form 5402 back-end case to ACSS.
 - **Collection Sustained** cases - APS will update ACDS, close the IDRS control base and forward the hard copy case to Files. In order to input Appeal's determination to sustain collection, the account will be brought back onto ACS by APS (input of STAUP 2200 and TSIGN 0604 to transfer the case to ACS and into Function R9).
- (3) APS will batch Forms 5402, prepare a Form 3210 and EFax them to the respective ACS Support CDP Coordinators at Fresno, Kansas City, Cincinnati, and Philadelphia, at least once each week.
- (4) If there are any problems or questions, the CDP Coordinator should contact the APS manager for clarification or work together to resolve. Accept Appeals' determination and process the case as indicated on the listing unless:
 - The system prevents input.
 - The action would cause an unpostable.
 - The action is clearly in violation of the law.
- (5) APS is responsible for inputting all actions for the alternative resolution determinations with the following exceptions.
 - Manually Monitored Installment Agreements (MMIA) - Centralized Case Processing (CCP) requires that requests for input of MMIA be made by the originating function. Therefore, Appeals will return any ACS request requiring an MMIA to ACSS for input. Appeals will indicate these requests on the Form 5402.
 - In-business Trust Fund (IBTF) Installment Agreements - Appeals identifies these as MMIA. For IBTF IAs, excluding IBTF Express, involving corporate or LLC taxpayers, prepare Form 6238, Referral Report for Potential Trust Fund Recovery Penalty Cases, lines 1 - 3, and send to CEASO. CEASO will take action to have the trust fund recovery penalty (TFRP) addressed. Include a copy of the Form 6238 with the MMIA file sent to CCP.

Note: Take necessary action on the IBTF IA even if Appeals did not identify it as an MMIA IBTF on the Form 5402.

- (6) ACS Support will input all sustained collection actions. To continue with collection actions (sustained) determination, the account must be brought back onto ACS/AMS.

Note: In some instances, a case will not come back onto ACS (e.g., large trust fund balance restriction - defined as service center balance plus accruals of any one module of \$10,000 or more when MFT is trust fund type 01, 03, 04, 09, 11. In these instances contact Collection Field Function (CFf) to coordinate their acceptance of the case so that they can pursue collection.

- (7) For ACSS /CDP units, the Forms 5402 will indicate whether collection was sustained or not sustained. If collection is not sustained the Form 5204 will indicate the reason. If a case is in status 26 when it comes back, forward the 5402 and TSIGN the account (use zip code listing - RO Group Address and Phone Number found on SERP under the Who/Where tab), to the RO.
- (8) Appeals does not make recommendations for the filing of a notice of lien on ACSS sourced CDP cases. Appeals may, however, make a recommendation that a notice of lien **not** be filed as a condition of an installment agreement.

- If Appeals determines a notice of lien will **not** be filed, Appeals will check the box on Form 433D, to indicate a lien may be filed if this agreement defaults. Forms 433D are not always forwarded to ACSS, so Appeals will also notate on the face of the Form 5402, if Appeals has determined that a notice of lien will not be filed as a condition of an installment agreement.
- Unless Appeals determines that a notice will not be filed as a condition of an installment agreement, Appeals will advise the taxpayer verbally or in writing on the Form 433D, that a lien may be filed by Collection when a collection alternative or CNC is determined.
- The ACSS-CDP Units will make the lien (NFTL) determination when the backend case is received, unless Appeals has determined a notice of lien will **not** be filed as a condition of an installment agreement. Based on the type of installment agreement (IA) granted, follow guidance in IRM 5.19.4.5.1, Notice of Tax Lien Filing Determinations, IRM 5.19.4.5.3.2, Filing Criteria, and IRM 5.19.4.6.1, How to File a NFTL. If Appeals indicates a Currently Not Collectible (CNC), make the lien determination per (5), IRM 5.16.1.2, Currently Not Collectible Procedures.

- (9) APS IDRS actions for working CDP backend:

- If a case originated as a Federal Payment Levy Program (FPLP) case (not on ACS) and the determination is to continue collection action, reverse the TC 971 AC061 with a TC 972 AC061. This will remove the block and make the account eligible for a FPLP or Alaska Permanent Fund Dividend (AKPFD) levy. Leave the block in place however, if the case is being returned to ACS for further collection action.
- In order to input Appeals' determination to sustain collection action, the account will be brought back onto ACS by APS (input of STAUP 2200 and TSIGN 0604 to transfer the case to ACS and into Function R9).
- Monitor IDRS and the unpostables list to ensure actions post.

(10) ACSS-CDP Units ACS/AMS actions for working CDP backend:

- Control the cases on AMS to the employees assigned to working the backend cases within 7 days of receipt from APS.
- Monitor to ensure the case comes back onto ACS after input of TC521, STAUP 2200 and TSIGN 0604 to prevent any adverse actions.
- Take the sustained collection action, as indicated on the Form 5402.
- Initiate mirroring actions if requested on Form 5402. See IRM 5.19.1.6.7, Mirroring Accounts.

Note: Do not take sustained collection actions on IMF Large Dollar cases. Update AMS comments with the Appeals Determination/Decision and reassign the case to the next appropriate ACS function with a 1 day follow up. See IRM 5.19.4, Enforcement Action, for guidance on the next appropriate ACS function.

- Move to the next appropriate function with the appropriate follow-up days. See IRM 5.19.4, Enforcement Action.
- Update AMS comments of Appeals' determination and the collection actions taken. If these actions close the CDP, add to ACS notes sectionM: ***CDP/CLSD mm/dd/yyyy LN or LV, MFT and tax period(s) e.g. 30/201712, 2018, 01/201903, 201906, 55/201603, 201606, 201609,201612,***.
- Update AMS comments if the account will not or cannot be brought back onto ACS.
- Destroy file copy of Form 12153B and associated documents.
- Process all backend cases within 30 days of receipt of the Form 5402.

(11) ACSS-CDP Units will input the collection actions requested on the Forms 5402, monitor to ensure posting and close the control base. ACSS-CDP will update CDPTS to stage 14 (closed case received from Appeals). This will move the case to archive.

Note: When Appeals grants an alternative, APS will close the case.

- (12) If a case is returned from Appeals as a premature referral, attempt to contact the taxpayer/POA to assist in perfecting the case so it can be re-submitted to Appeals. Clearly document your actions on AMS.
- (13) Occasionally a taxpayer will waive their rights to a CDP hearing as a condition of some other legal proceeding or part of the settlement of liabilities, however they may receive a CDP notice anyway in error. If the taxpayer responds to it by submitting a CDP request, Appeals will return this case to Collection as a "premature referral". Inform the taxpayer by phone or in writing that they will not receive a hearing because they previously waived their rights. Then close the case and document AMS.
- (14) Report volumes and hours for CDP back-end processing to OFP 810-64410.

5.19.8.4.15
(05-22-2018)
**Retained Jurisdiction
Hearings**

- (1) Appeals retains jurisdiction on cases that are timely protested by taxpayers, i.e., CDP cases. In two circumstances, taxpayers may return to Appeals for a Retained Jurisdiction Hearing:
- Taxpayers may return to Appeals if they perceive that the collection function did not carry out Appeals' determination, as it was stated.

- Taxpayers may return to Appeals if there is a change in circumstances with respect to them, which affects Appeals' determination. However, they must first exhaust all administrative remedies, such as discussing the issue with the collection employee's manager.
- (2) The only issues that will be considered in a retained jurisdiction hearing are those that pertain to the resolution of the CDP notice of determination.
 - (3) Taxpayers who wish to raise new issues or tax periods and types of tax that were not in the CDP Notice of Determination should be advised to do so in a CAP request.
 - (4) The statutory period for collection (CSED), is not suspended during the retained jurisdiction proceeding.
 - (5) Collection action will generally be administratively withheld, unless collection is at risk. If collection is determined to be at risk, notify Appeals immediately. When it is determined that collection action during the appeal is appropriate, the lien or levy action must be approved by the manager.
 - (6) For retained jurisdiction hearings, the CDP caseworker will make an initial attempt to contact the taxpayer.
 - a. If contact is made, try and resolve the issue with the taxpayer. If unable to reach a mutual resolution, then the taxpayer must have a conference with a CDP manager.
 - b. If contact is not made, then the CDP manager will make one contact attempt.
 - (7) The taxpayer must participate in a conference with the CDP manager in charge in retained jurisdiction cases in which the taxpayer alleges a change in circumstances. If the taxpayer cannot be contacted, or refuses to participate in the conference, the case will be returned to the taxpayer, explaining this requirement and advising the taxpayer of CAP rights.
 - (8) For retained jurisdiction cases in which the taxpayer alleges that Appeals' determination was not carried out correctly, try to have the taxpayer participate in a managerial conference. If however the taxpayer does not want to talk to a CDP manager, the case may be sent to Appeals without a conference.

Note: A retained jurisdiction case is considered a new case receipt in APS and will be processed under their normal new case referral process.

Note: Appeals Account Resolution Specialists (AARS) at *AP Inquiries, will accept cases closed in Appeals if the Appeals determination, as it relates to completion of administrative procedures, was not carried out correctly. See IRM 8.1.9.2(4), AARS Closed Case Referrals, for exceptions.

- (9) If the taxpayer and CDP manager reach an agreement during the conference, the case will be given to the CDP caseworker for completion. All documentation will be filed using TC290 for .00 with the appropriate blocking series.
- (10) If the taxpayer and CDP manager do not reach an agreement during the conference, the case will be given to the CDP caseworker to be forwarded to Appeals and the taxpayer will be so advised.

- (11) The case will be forwarded to Appeals on Form 3210 with an indication that the case is a Retained Jurisdiction case to differentiate it from a CDP or CAP case.
- (12) The taxpayer will receive a letter upon completion of the review under the retained jurisdiction provision. The decision by Appeals is final with no further appeals to U.S. Tax Court. See IRM 8.20.5.12.1.1.1, Retained Jurisdiction. and IRM 8.22.9.18, Retained Jurisdiction (RJ) Hearings for more information.

5.19.8.4.16
(03-16-2018)
**Collection Appeals
Program (CAP)
Procedures**

- (1) If a taxpayer is informed by an IRS employee or notice or letter that a lien, levy or seizure action has been or will be taken, or that an Installment Agreement (IA) is rejected, proposed for termination or terminated, or proposed for modification or modified, the taxpayer can appeal the action.

Caution: Generally, before Appeals consideration, the taxpayer must first discuss the problem with a manager. This is not required when the appeal is about the rejection, modification or proposed modification, termination or proposed termination of an IA.

Note: Taxpayer may also be entitled to CDP appeal rights.

- (2) In addition, if the taxpayer requests that a lien be withdrawn and the Service denies their request, this is appealable under CAP.

5.19.8.4.16.1
(08-05-2016)
**When an Appeal Is
Appropriate Under CAP**

- (1) The CAP procedure is available under more circumstances than the Collection Due Process hearing procedure. The taxpayer cannot proceed to court if they do not agree with Appeals' decision in a CAP case.
- (2) Collection actions that can be appealed under CAP:
 - Before or after the filing of a Notice of Federal Tax Lien (NFTL).
 - Before or after the serving of a notice of levy.
 - Before or after the seizure of property.
 - After the denial of a request for property to be discharged from a lien.
 - After the denial of the subordination of a lien.
 - After the denial of the withdrawal of a NFTL.
 - After the denial of the issuance of a certificate of non-attachment.
 - Termination or proposed termination, modification or proposed modification, of an installment agreement (IA).

Note: A modification can involve a proposal by the IRS or the taxpayer.

- Rejection of an installment agreement (IA).
 - After the disallowance of a taxpayer's request for return of levied property under IRC 6343(d).
 - After the disallowance of a third-party property owner's request for return of wrongfully levied property under IRC 6343(b).
 - Third party claims to property including alter ego and nominee liens.
- (3) Collection action is suspended while the case is in Appeals. The enforcement action continues during the appeals process if, in the judgment of the originator's manager, withholding the action would put collection of the tax liability at risk. For example, an action that puts collection of the tax liability at risk is when a taxpayer is disposing of assets for substantially less than full value or is putting assets out of the reach of the government. Appeals should be notified immediately if it is determined that enforcement action should be

continued. However, if the propriety of the enforcement action is being considered during the CAP, refrain from the action. Do not contact Appeals regarding the actions as it may result in prohibited ex parte communications (see IRM 5.1.9.5, Communications with Appeals, for information on ex parte communications).

Note: Levy action is suspended during the statutory period the taxpayer has to appeal an IA or until Appeals makes a determination, whichever is later.

5.19.8.4.16.2

(03-16-2018)

Exclusions From This Program

- (1) Certain Collection issues have separate appeal procedures. When a taxpayer requests a CAP appeal involving one of these issues, advise the taxpayer of the correct procedures. Examples of such requests are:
 - Trust Fund Recovery Penalties
 - Offer in Compromise
 - Other penalty appeals
- (2) CAP cannot be used to reopen examinations or claims for refund. Examination reconsiderations and claims are appealable under their own appeals procedures. The established procedures for audit reconsiderations can be found in IRM 4.13, Audit Reconsideration. Claim for refunds can be found in IRM 21.5.3.4, General Claims Procedures.
- (3) Refer taxpayers to Taxpayer Advocate Service (TAS) when the contact meets TAS criteria in IRM 13.1.7.2, Introduction to TAS Case Criteria, and you can't resolve the taxpayer's issue the same day. The definition of "same day" is within 24 hours. "Same day" cases include cases you can completely resolve within 24 hours, as well as cases in which you have taken steps within 24 hours to begin resolving the taxpayer's issue. Do not refer "same day" cases to TAS unless the taxpayer asks to be transferred to TAS and meets the TAS criteria. Refer to IRM 13.1.7.6, Same-Day Resolution by Operations. When you refer cases to TAS, use Form 911, Request for Taxpayer Advocate Service Assistance (and Application for Taxpayer Assistance Order), and forward to TAS.
- (4) Actions under the control of a court of competent jurisdiction are excluded from this program.
- (5) Cases under the control of the Criminal Investigation Division are excluded from this program.
- (6) Issues not within the scope of Internal Revenue laws (e.g., moral, religious, or constitutional issues) cannot be settled by Appeals.
- (7) Actions under the control of the Department of Justice (DOJ) are excluded from CAP.

Note: Refer to IRM 21.5.6.4.46(2), -W Freeze, for status and action codes that define a DOJ case.

5.19.8.4.16.3

(05-03-2023)

CAP Coordinator Duties

- (1) A Collection Appeals Program (CAP) Coordinator must be established in each area, (e.g., ACS, ACS Support and CSCO). A list of CAP Coordinators can be found on SERP under the Who/Where tab at this link: <http://serp.enterprise.irs.gov/databases/who-where.dr/cap-coordinators.html>.

- (2) If a CAP case is received that is not under your campus jurisdiction, forward it to the correct site following the guidance in IRM 5.19.8.4.16.3.1, CAP Case (Form 9423) Routing for ACSS and CSCO.
- (3) For those cases that will be worked by your campus, attempt to contact the taxpayer and resolve the case per instructions in IRM 5.19.8.4.16.4, How Does the Taxpayer Appeal an IRS Action.
- (4) If the area that took or will take the action is ACS and the taxpayer's CAP request was received through the ACS toll-free phone line (and was received in the correct BOD site) the call site receiving the call will work the CAP request.
- (5) CAP Coordinators or TEs assigned CAP cases will forward CAP cases to Appeals using the following steps:

1. Scan the CAP case to create a pdf case file
2. Name campus (ACS / ACSS / CSCO) CAP case files using the following naming convention: (NF = Non-Field), Four Character Name Control, Last Four Digits of TIN, Hearing Type.

Example: NF SHAS XXXX CAPLV

Example: NF MOOS XXXX CAPLN

Note: If more than one type of hearing is selected, the main issue should be entered on the naming convention (e.g., CAPLV) and the Form 15044, Transmittal of Collection Appeals Program (CAP) Hearing Request, should document all the hearing types.

3. Separately upload each new CAP case to Appeals using the *Electronic Case Receipts (ECR) page*. A Form 15044, Transmittal of Collection Appeals Program (CAP) Hearing Request must be completed and included. On the MFT and Tax Periods fields of the ECR page, enter: "See attached Form 15044".
4. Maintain the pdf case file copy until it is closed by Appeals and the required actions taken per the Form 5402

Note: A rejected IA case must go through the independent review process before being accepted by Appeals or it will be rejected back to the originating manager. These CAP requests should go to the area that rejected the IA and is holding the independent review case file.

- (6) The CAP case will include the following:
 - Form 15044, Transmittal of Collection Appeals Program (CAP) Hearing Request.
 - Pertinent ACS histories and appropriate ACS screens.
 - Copies of Taxpayer's correspondence.
 - Form 4442, Inquiry Referral, if used.
 - Form 9423, Collection Appeal Request (if provided).
 - Any other information you deem pertinent.
- (7) Any delays will be coordinated with the CAP coordinator.
- (8) Appeals will inform the CAP coordinator of their decision within a 5-day time frame.

Note: The 5-day timeframe begins upon the Appeals Officers receipt of the case and ends with the input of the AC/FR on ACDS.

If a decision is not received within a 10-day time frame, follow up with Appeals.

- (9) If the taxpayer's request did not meet the requirements for a CAP appeal, Letter 5060C may be used to notify the taxpayer.
- (10) Report hours and volumes related to the CAP Coordinator duties to the appropriate OFP code as follows:
 - ACS/ACSS: 64420
 - CSCO: 61131

5.19.8.4.16.3.1
(05-03-2023)

**CAP Case (Form 9423)
Routing for ACSS and
CSCO**

- (1) If a CAP case is on Form 9423 or correspondence and the result of a notice initiated by an employee, forward it to the area that initiated the action by the next business day.
- (2) If a CAP case is on Form 9423 or correspondence and the result of a systemically generated notice, determine the appropriate site according to the status, Business Operating Division (BOD), and taxpayers residence state by following the guidance in the table below. Forward by the next business day.

CAP Case Routing for ACSS and CSCO if Status is STATUS 22:

| If BOD is: | And Taxpayer Resides in: | Then Route to: |
|------------|--|---|
| SBSE | AL, AR, CT, DE, FL, LA, ME, MD, DC, MA, MS, NH, NJ, NC, NY, OK, PA, RI, SC, TN, VT, VA, International | Internal Revenue Service ACS Support, M/S 4-Q26.133 P.O. Box 42346 Philadelphia, PA 19101-2346 |
| SBSE | AK, AZ, CA, CO, GA, HI, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NV, NM, ND, OH, OR, SD, TX, UT, WA, WV, WI, WY | Internal Revenue Service ACS Support/CDP, Stop 813G 7940 Kentucky Dr. Florence, KY 41042 |
| W&I | AK, AZ, CA, CO, HI, ID, IA, KS, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WY | Internal Revenue Service ACS Correspondence P.O. Box 24017, Stop 76100, Fresno, CA 93779-4017 |

| If BOD is: | And Taxpayer Resides in: | Then Route to: |
|------------|--|--|
| W&I | AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, DC, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI | Internal Revenue Service ACS Support/CDP , Stop P-4 5050 P.O. Box 219236 Kansas City, MO 64121-9236 |

CAP Case Routing for ACSS and CSCO if Status is NON-STATUS 22:

| If BOD is: | And Taxpayer Resides in: | Then Route to: |
|------------|--|---|
| SBSE | CT, ME, MA, NH, NY, RI, VT | Internal Revenue Service Stop 661 - TDA 1040 Waverly Avenue Holtsville, NY 11742 |
| SBSE | AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, NE, NJ, ND, OH, OK, PA, SD, TN, TX, WV, WI, MS | Internal Revenue Service Stop 811 5333 Getwell Road Memphis, TN 38118 |
| SBSE | AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, WY | Internal Revenue Service M/S 5500 1973 Rulon White Blvd. Ogden, UT 84201 |
| SBSE | DE, FL, MD, DC, NC, SC, VA, International | Internal Revenue Service BLN 4N31.142 2970 Market St. Philadelphia, PA 19104 |
| W&I | AK, AR, AZ, CO, CT, DE, HI, ID, IL, ME, MD, DC, MA, MT, NV, NH, NJ, NM, ND, OR, RI, SD, TN, UT, VT, WA, WI, WY | Internal Revenue Service Stop 832 310 Lowell Street Andover, MA 01810 |
| W&I | AL, FL, GA, KY, LA, MS, NC, SC, TX, VA | Internal Revenue Service Stop 61 4800 Buford Highway Chamblee, GA 30341 |

| If BOD is: | And Taxpayer Resides in: | Then Route to: |
|------------|--|--|
| W&I | AR, CA, IN, IA, KS, MI, MN, MO, NE, NY, OH, OK, PA, WV | Internal Revenue Service Stop P-4 5000 333 W. Pershing Road Kansas City, MO 64108-4302 |

5.19.8.4.16.4
(05-03-2023)

How the Taxpayer Appeals an IRS Action Using CAP

- (1) The taxpayer can call the phone number shown on the notice or write us by submitting Form 9423, Collection Appeal Request, or its equivalent. The taxpayer must be prepared to explain which actions(s) they disagree with and why they disagree. The taxpayer must also offer a solution to their tax problem.
- (2) Try to resolve the issue(s) including any requests for alternative resolutions that may accompany the CAP, with the taxpayer. If you cannot reach an agreement with the taxpayer, they can appeal your decision. Honor the request and refer the taxpayer to your manager if they are available to accept the call. The manager should speak with the taxpayer immediately or return the call within 24 hours. If your manager is not available, inform the taxpayer that a manager will call them back within 24 hours. Take the following actions to facilitate the manager's call-back:
 - a. Document in AMS the taxpayer's best phone number and best time to call.
 - b. Re-assign the case to the correct manager function, for example: TOS0,01,MGRCB or TOC0,01,MGRCB.
 - c. Document AMS that case is a CAP and clearly describe the issue(s), and the taxpayer's proposed solution.
 - d. Make a print of the case and give to the manager for the call-back.

Caution: These call-backs cannot be re-delegated.

Note: If in attempting the call-back, a message must be left, leave the number where the manager can be reached directly and the best time to call. It is not appropriate in these cases to leave the 1-800 toll-free number.

- (3) Generally, before a taxpayer requests a CAP appeal, they must discuss the problem with a collection manager. Taxpayers or representatives who make themselves unavailable to the manager for the mandatory discussion will not be entitled to a CAP appeal unless it is apparent the manager did not offer a reasonable opportunity for such discussion to occur. If the taxpayer's verbal or written CAP request is received prior to the managers' conference, treat it as valid and request manager contact within two (2) days of receipt of the request.

Note: CAP appeal requests involving proposed termination, terminated or rejected installment agreements do not require a managerial conference.

- (4) The instructions for the Form 9423 include the following: If a taxpayer requests a conference and is not contacted by a manager within two (2) business days of making the request, the taxpayer may contact Collection again or submit Form 9423. If the taxpayer chooses to submit Form 9423, the date of the taxpayer's request for a conference and information indicating they were not contacted by a manager should be noted in Block 15 of the Form 9423. The Form 9423 should be received or postmarked within four (4) business days of the taxpayer's request for a conference as collection action may resume.
- (5) After discussing the issue with the taxpayer, the manager will make a decision on the case. If the taxpayer does not agree with the manager's decision, the case will be forwarded to Appeals through the CAP coordinator. The manager must forward the case to the CAP Coordinator within 24 hours and then the CAP Coordinator must forward the case on to Appeals within 24 hours. Take the following actions in preparing the case for the CAP Coordinator:
 - a. Clearly document the manager's call(s) discussion content with the taxpayer.
 - b. Include the manager's full name, title and phone number. Also include the date and time of the call between the manager and the taxpayer.
- (6) If the taxpayer does not decide to appeal at the point of the manager conference and has not already requested a CAP in writing or verbally, they have two days to call back and advise us that they have decided to appeal. If the taxpayer does not call back within 2 days, collection action may resume, in lien, levy or seizure CAP cases.
- (7) In cases involving proposed termination, terminated or rejected installment agreements where you cannot reach a resolution with the taxpayer, these cases shall be prepared and forwarded directly to the CAP Coordinator as follows:
 - a. Document in AMS the conversation with the taxpayer, the taxpayers' best phone number and best time to call.
 - b. Document AMS that the case is a CAP and clearly describe the issue(s).
 - c. Make a print of the case and give it to the CAP Coordinator.
- (8) If the CAP appeal is not being sent to Appeals because the issue indicated does not qualify as a CAP or considered invalid per IRM 5.19.8.4.16, work the case as regular correspondence, providing the taxpayer with a complete response as possible, using the applicable letters. Don't reject solely because the issue is received on Form 9423. If the issue is outside the scope of ACSS or CSCO work, forward it to the appropriate function and destroy the correspondence as classified waste. Document on AMS a detailed description of the taxpayer's request and the actions taken.

5.19.8.4.16.5
(03-16-2018)

**Appeals on Defaulted
and Rejected Installment
Agreements**

- (1) Installment Agreements (IA) that default are usually due to:
 - Missed payment
 - Insufficient payment
 - Additional liability
- (2) When a taxpayer defaults on their IA, a CP523, Installment Agreement Default Notice, is sent, which proposes termination of the IA. Unless the TP appeals the proposed termination within the 30-day period or cures the default, the IA terminates 30 days from the date of the default notice. After the IA terminates,

the taxpayer has 30 days to appeal the termination of the IA. This means the law gives the taxpayer 60 days from the date of the CP523 to appeal.

- (3) The taxpayer must request an appeal of the rejection of a proposed IA on or before the 30th day after the date of the rejection letter. The mailed Form 9423 or written request must be postmarked on or before such day.
- (4) Levy is prohibited by law for 30 days after IRS terminates an IA or rejects a proposed IA. The taxpayer may appeal at any time during the 30-day period after the IRS terminates or rejects a proposed IA.
 - If the taxpayer appeals the rejection/termination of the IA within that 30 days, the prohibition on levy will continue during the period that the appeal is pending.

5.19.8.4.16.6
(05-03-2023)
Sending Cases to Appeals

- (1) Prepare and forward CAP cases per IRM 5.19.8.4.16.3, CAP Coordinator Duties. Cases will be sent to Appeals through the CAP Coordinator or by TEs assigned CAP cases to work.

Note: CAP cases will be forwarded to Appeals using the *Electronic Case Receipts (ECR)* page within two days of the manager's conference.

- (2) Input a STAUP for four cycles. Enter an AMS history item as follows to indicate a CAP case has been received and forwarded:
 - CAPLNOP - CAP, Lien issue.
 - CAPLVOP - CAP, Levy issue.
 - CAPIAOP - CAP, IA Termination issue.
 - IADENIAL - IA denial.
- (3) Document any discussions about the case with the originating manager on AMS and the Form 4442, if used.
- (4) When the appeal is closed by the Appeals Office, and the originating manager is notified, enter the IDRS history item CAPaaCLnn where (aa = the issued appeal LV, LN, IA) and nn = Appeals closing code (IRM 5.19.8.5, CAP Reports).

Example: CAPLVCL14-CAP, Levy issue, closed by Appeals, originators decision supported with no changes.

- (5) Take all actions as directed by Appeals per Form 5402. Document actions on AMS. Monitor to ensure actions post properly. Copies of cases forwarded to Appeals do not need to be sent to files.

5.19.8.4.16.7
(08-27-2010)
Additional Instructions for ACS

- (1) Reassign the case to R0,15,CAPxx (xx=LV for levies; LN for liens; IA for denied or terminated installment agreements).
- (2) The request for an appeal and statements about the issue must be documented in the comments section of AMS.

Caution: Do not use brevity codes.

- (3) When the appeal is closed by the Appeals office and the originating manager is notified, enter the IDRS history item CAPxx (xx=issue),CLnn (nn=appeals

closing code). See IRM 5.19.8.5, CAP Reports, for closing codes.

Example: CAPLVCL14 = CAP, levy issue, closed by Appeals, originator's decision supported with no changes.

- (4) ACS will also:
 - a. Enter the information into AMS comments precisely as given by Appeals.
 - b. Include any previous comments at this time so no important information is missing.
- (5) The CAP Coordinator will return the case back to the originator for the next appropriate action(s), and monitor their input or the CAP coordinator will complete the actions.

5.19.8.4.16.8
(02-03-2014)
**Cases Awaiting Appeals
Decision**

- (1) Appeals will review the case for appropriateness based on the law, regulations, policy and procedures (national and local), considering all the facts and circumstances.
- (2) Local procedures will only be considered appropriate if they are written and in accordance with the IRM. Judgement is likely to be an issue on these types of cases, although they can also involve legal or procedural issues. Appeals may reverse Collection's action, if evaluation of the taxpayer's history and current facts or circumstances reveal a more appropriate solution.
- (3) In a CAP hearing Appeals will be limited to sustaining collection or otherwise directing Collection to take the appropriate corrective action. Appeals does not consider alternatives to the issue under appeal, but solely determines the appropriateness of the issue under appeal. See IRM 8.24.1.1.1, Background, and IRM 8.24.1.3.8, Case Procedures Under CAP, for additional information.
- (4) It is Appeals' goal to close these cases within five business days. It is suggested that Appeals hold a conference with the taxpayer within two days. If requested, taxpayers will be allowed a reasonable delay when warranted; however, it usually should not exceed five business days. Any delays will be coordinated with the CAP coordinator, manager, or originator as appropriate.
- (5) If the taxpayer tries to present new information to Appeals that the originating office manager or CAP coordinator has not considered, Appeals should not ask them to review and comment on the new information as it would be a request for prohibited ex parte communication (see IRM 5.1.9.5, Communications with Appeals, for information on ex parte communications) unless the request is shared with the taxpayer or taxpayer's representative.
- (6) Appeals will inform both the CAP coordinator and the taxpayer of their decision as soon as possible within the 5-day time frame. The CAP coordinator will be contacted immediately upon making a decision.
- (7) Appeals decision may initially be given orally, but **MUST** be followed up by a written closing letter. A copy of the letter will be given to the originating office. Upon oral advice, Collection actions may resume or the Appeals decision may be implemented.

5.19.8.5
(01-01-2000)
CAP Reports

- (1) The following codes will appear on the Appeals Centralized Database System (ACDS) to indicate the CAP issue:
 - CAPLV — levies
 - CAPLN — liens
 - CAPSZ — seizures
 - CAPIA — denied or terminated Installment Agreements
- (2) The closing codes are as follows:
 - Fully sustained = 14 — Used when the originator's decision supported with no changes
 - Not sustained = 15 — Used when the originator's decision is completely overturned
 - Partially sustained = 16 — Used when only minor changes are made to the originator's decision. Also used when the taxpayer proposed a new acceptable proposal for resolution that was not presented to the originator and would have been accepted if it had been offered.

5.19.8.6
(06-02-2021)
CP 508C, Notice of Certification of Your Seriously Delinquent Federal Tax Debt to the State Department

- (1) Per IRC 7345, this notice is sent to taxpayers certified as seriously delinquent taxpayers. Under section 32101(e) of the FAST Act, the U.S. State Department is generally required to deny passports to certified taxpayers and authorized to revoke passports of such taxpayers. This is not a CDP notice and taxpayers have no right to Appeals review of the notice of certification. Taxpayers with concerns regarding this notice may bring an action in the Tax Court or a federal district court. For additional information see IRM 5.19.25, Passport Program
- (2) Actions will be coordinated through SBSE Division Counsel. If a copy of the CP508C is needed, a counsel attorney will contact a CDP Coordinator and request it. Copies of the notice will be on the Control-D system. The CDP Coordinator will provide the copy via EEFax within one week of the request.

5.19.8.7
(12-17-2019)
OFP Program and Function Codes

- (1) OFP Reporting for CDP and Equivalent Hearing cases:
 - Use 810-64400 for front-end processing (volumes and all time spent building the case for Appeals)
 - Use 810-64410 for back-end processing (volumes and all time processing a case returned from Appeals)
 - Use 810-64430 for Collection Information Statements (CIS) verification requests (volumes and time processing CISs from Appeals)
- (2) OFP Reporting for CAP cases:
 - Use 810-64420 (volumes and time spent by ACS and ACSS CAP Coordinators).
 - Use 810-61131 (volumes and time spent by CSCO CAP Coordinators)

