



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

8.22.5

DECEMBER 3, 2025

EFFECTIVE DATE

(12-03-2025)

PURPOSE

- (1) This transmits revised IRM 8.22.5, *Collection Due Process, Receipt, Control and Pre-Conference Considerations*.

MATERIAL CHANGES

- (1) Incorporated Independent Office of Appeals (Appeals) Interim Guidance memorandum AP-08-0525-0006, Reissuance of Electronic Collection Due Process (CDP) Case Management for Cases from SB/SE Field Collection, by adding new subsection IRM 8.22.5.2.1, Electronic Collection Due Process (CDP) Case Management, which references newly created Exhibit 8.22.5-1, Electronic CDP Step-by-Step Guidance. Renumbered affected subsections.
- (2) Incorporated Appeals Interim Guidance memorandum AP-08-0724-0012, Equitable Tolling in CDP, by creating new IRM 8.22.5.3.2, Equitable Tolling, as well as subsections IRM 8.22.5.3.2.1, If Equitable Tolling Criteria are Not Met, and IRM 8.22.5.3.2.2, If Equitable Tolling Criteria are Met. Renumbered prior IRM 8.22.5.3.2, Documentation Requirements - CDP Statute Controls and Verifications, to IRM 8.22.5.3.3. Inserted new paragraph (5) into IRM 8.22.5.9, renumbered subsequent paragraphs and removed obsolete paragraphs (8) & (9).
- (3) Incorporated Appeals Interim Guidance memorandum AP-08-1223-0013, New SharePoint Site for ACDS Update Request, into renumbered IRM 8.22.5.3.3 by updating routing instructions in the table of paragraph (6).
- (4) Updated references throughout to the former Wage & Investment (W&I) division to reflect the organizational name change to Taxpayer Services (TS) in compliance with SPDER's directive to revise affected IRMs. Corrected inaccurate citations in IRM 8.22.5.4.2.1.7, Supervisory Approval of Certain Penalties, containing references to Taxpayer Services.
- (5) Updated IRM cross-references that were affected by renumbering.

EFFECT ON OTHER DOCUMENTS

IRM 8.22.5 dated August 31, 2020, is superseded. This revision also incorporates Interim Guidance Memoranda AP-08-0525-0006, Reissuance of Electronic Collection Due Process (CDP) Case Management for Cases from SB/SE Field Collection; AP-08-0724-0012, Equitable Tolling in CDP; and AP-08-1223-0013, New SharePoint Site for ACDS Update Request.

AUDIENCE

Appeals Officers, Appeals Account Resolution Specialists and Appeals Team Managers

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8.22.5

Receipt, Control and Pre-Conference Considerations

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8.22.5.1
(08-31-2020)
Program Scope and Objectives

- (1) Purpose: This section provides guidance to Appeals Officers (AOs) from initial receipt of a Collection Due Process (CDP) or Equivalent Hearing (EH) case to the conference.
- (2) Audience: The primary users of this IRM section are AOs and Appeals Team Managers (ATMs) handling CDP, EH and CDP Timeliness Determination (CDPTD) cases.
- (3) Policy Owner: Director, Operations Support.
- (4) Program Owner: Director, Policy, Planning, Quality and Analysis (PPQ&A).
- (5) Contact Information: Appeals employees should follow established procedures on *How to Contact an Analyst*. Other employees should contact the Product Content Owner shown on the Product Catalog Information page for this IRM section.

8.22.5.1.1
(08-31-2020)
Background

- (1) The IRS Restructuring and Reform Act of 1998 (RRA 98) created CDP appeal rights and with them, the ability for taxpayers to contest their liability under certain circumstances.

8.22.5.1.2
(08-31-2020)
Authority

- (1) IRC sections 6320 and 6330 are the primary sources of authority, in addition to applicable IRM sections. Further, the Taxpayer Bill of Rights, IRC 7803(a)(3), applies to Appeals employees' interactions with taxpayers.

8.22.5.1.3
(08-31-2020)
Responsibilities

- (1) The Policy analyst shown on the Product Catalog page as the originator is the assigned author of this IRM.

8.22.5.1.4
(08-31-2020)
Program Reports

- (1) PPQ&A provides trend and data analyses and detailed summary reports for Appeals.

8.22.5.1.5
(08-31-2020)
Terms and Acronyms

- (1) See IRM Exhibit 8.22.4-3, Common Terms and Acronyms Used in Collection Due Process, for common terms and their definitions.

8.22.5.2
(03-29-2012)
Initial Review and Case Controls

- (1) This section provides initial case review instructions for:
 - a. Premature referrals
 - b. Case Summary Card (CSC) issues
 - c. Ensuring proper case type
 - d. Case Activity Record (CAR) documentation requirements for initial case review
- (2) Decisions in a timely CDP case are subject to review by the U.S. Tax Court. The Tax Court reviews the administrative record relied on by the Appeals employee making the required determinations under IRC 6330(c)(3). For this reason, it is critical to:
 - a. Conduct a quality initial review of the file received from Collection
 - b. Maintain proper case controls, **and**
 - c. Properly document findings, communications and determinations made

- (3) The following table summarizes verification and documentation requirements associated with the overall initial review of a CDP or EH case. Refer to each IRM section listed for information on each requirement:

Verification Item	IRM Reference	Review	Document in CAR
Initial CDP Case Review			
Case Type	IRM 8.22.5.2.3.2	X	
Tax Periods	IRM 8.22.5.2.3.2	X	
Feature Codes	IRM 8.22.5.2.3.3	X	
CSC Updates	IRM 8.22.5.2.3.4	X	
CDP Statute Verification, Controls and Documentation			
Timeliness - CDP	IRM 8.22.5.3 thru IRM 8.22.5.3.3	X	X
Timeliness - EH	IRM 8.22.5.3.1.2 & IRM 8.22.5.3.3	X	X
Collection Statute Expiration Date (CSED) Verification & Statute Controls	IRM 8.22.5.3.3	X	X
CDP Non-Statute Verification and Documentation			
No Prior Involvement	IRM 8.22.5.4.1 thru IRM 8.22.5.3.1.2	X	X
Legal & Administrative Procedures	IRM 8.22.5.4.2 thru IRM 8.22.5.4.2.4	X	
Assessment Verification	IRM 8.22.5.4.2.1 thru IRM 8.22.5.4.2.1.3	X	
CDP Notice	IRM 8.22.5.4.2.4	X	

- (4) The legal requirements for documenting verification of compliance with legal and administrative procedures, proper assessment of the tax and penalties, and proper issuance of the CDP notice are met by documenting such in the attachment to the Notice of Determination (NOD) or Decision Letter. However, good case management practices may dictate documenting these items in the CAR as each are verified.

8.22.5.2.1
(12-03-2025)
**Electronic Collection
Due Process (CDP) Case
Management**

- (1) SB/SE uploads all CDP documents through the Electronic Case Receipts (ECR) SharePoint. Upon receipt via ECR, Appeals follows Exhibit 8.22.5-1, Electronic CDP Step-by-Step Guidance.

8.22.5.2.2
(08-11-2017)
eCase Overview

- (1) eCase enables the Appeals Centralized Database System (ACDS) to electronically receive and store case files from the databases of partner organizations. This reduces the time required to establish the case on ACDS and also reduces or eliminates data input errors.

- (2) eCase information is available from ACDS via the “eCase Info” button after accessing a case or work unit number (WUNO). The “eCase Info” button is grayed-out if eCase information is not available.
- (3) eCase provides data such as:
 - Taxpayer name
 - Taxpayer Identification Number (TIN)
 - Master File Tax (MFT) code
 - Tax periods
 - Power of Attorney (POA) information, if available
 - Telephone numbers, if available
- (4) eCase for Automated Collection System (ACS) cases has 11 tabs for information, including:
 - Case Events: A chronological list of events of the case while in Collection
 - Information Items: ACS case narrative (see ACDS Utilities for ACS standard abbreviations and comments)
 - Account Alerts and telephone numbers
 - Financial Summary
 - Asset/Liability: When available, this tab provides a list of assets, available credit, payments for certain expenses, federal and state withholding amounts
 - Transactions
 - Tax Modules (Integrated Data Retrieval System (IDRS) command code TXMODA)
- (5) Integrated Collection System (ICS) eCase is more limited containing three tabs for information:
 - ICS Account
 - Address/Contact Info
 - Taxpayer Agent
- (6) ICS eCase does *not* provide:
 - ICS case history
 - IDRS command code TXMOD information
- (7) ACDS data is also transmitted electronically to the ICS case history when the CDP/EH case is received or closed by Account and Processing Support (APS). ACDS data transferred to ICS includes:
 - Resolution Reason Description (RRD) selected on the Form 5402, Appeals Transmittal and Case Memo
 - Hearing Type (DPLV/DPLN/DPL2 - see IRM 8.22.5.2.3.2, CDP Case Type)
 - Feature code(s)
 - Tax periods
 - Dates (e.g., hearing requested, received in Appeals, request created on ACDS, closed)

8.22.5.2.3
(08-31-2020)

**Case Summary Card
(CSC)**

- (1) APS establishes the case, or WUNO, on ACDS using:
 - a. Form 14461, Transmittal of CDP/Equivalent Hearing Request, for field Collection cases, or
 - b. Form 12153-B, Referral Request for CDP Hearing from ACS Support, for ACS cases
- (2) After establishing the WUNO on ACDS, APS attaches a CSC to the case file highlighting the critical elements of the WUNO.
- (3) The Appeals employee assigned the case is responsible for reviewing the following to ensure the accuracy of the information on the CSC:
 - Form 12153, Request for a Collection Due Process or Equivalent Hearing
 - Form 14461, or Form 12153-B,
 - CDP lien or levy notice issued by Collection

Note: ACS Letter LT11 is available on Control-D through the ACS CDP Coordinator. ACS also enters the U.S. Postal Service (USPS) received date on the CDP-Certified Mail Repository (CDP-CMR). See the Appeals CDP SharePoint for links entitled *ACS CDP Coordinators*, for Control-D information. Also located on the Appeals CDP intranet page is the Support Work Link to Request Statutory Notice of Deficiency/Certified Mailing List (SNOD/CML), which can be used to obtain copies of SNOD/CML information.
- (4) A request for a CDP hearing includes **all** periods listed on the CDP lien and/or levy notice, even if not listed on the hearing request. The periods on the CDP notice and the periods on the CSC must be the same unless the taxpayer specifically excludes a tax period on his or her hearing request.
- (5) When adding CDP tax periods to the CSC, ask APS to input to the new periods a Transaction Code (TC) 971 with action code (AC):
 - 275 for a timely CDP hearing
 - 278 for an EH
 - 630 standalone levy **or** combination lien and levy hearing
- (6) If a taxpayer subsequently withdraws some tax periods from the CDP hearing, see IRM 8.22.5.2.6, CDP Withdrawals.
- (7) If the periods on the CSC are not consistent with the taxpayer's hearing request, see IRM 8.22.5.2.3.4, CSC Updates, for instructions on making updates to the CSC.

8.22.5.2.3.1
(08-11-2017)

**Linked and Separate
Work Units (WUNOs)**

- (1) A case involving one taxpayer may require multiple work units on ACDS. The work units may be linked or separate. Linked work units have the same WUNO. Separate work units each have their own unique WUNO.
- (2) Linked WUNOs are appropriate in the following instances:
 - a. More than one MFT is part of the case, such as a business taxpayer with MFT 01 (Form 941, Employer's Quarterly Federal Tax Return), MFT 10 (Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return), and MFT 02 (Form 1120, U.S. Corporation Income Tax Return) liabilities

- b. Joint income tax liabilities (MFT 30) are owed and the husband is PRIMARY for some years and the wife is PRIMARY for other years
- c. Joint liability cases in which the spouses reside together but file separate Forms 12153

Note: No correction is needed if separate WUNOs were created even though they could have been linked.

(3) Separate WUNOs are appropriate in the following instances:

- a. One taxpayer owes both Business Master File (BMF) and Individual Master File (IMF) taxes
- b. A BMF case has multiple but related entities with multiple Employer Identification Numbers (EINs)
- c. A case involving a husband and wife with a joint income tax liability (MFT 30) and one spouse also owes a separate income tax liability (MFT 30)
- d. Cases in which some periods are timely CDP and others are EH
- e. Separate CDP-Offer in Compromise (OIC) WUNO
- f. Separate CDP-liability WUNO when liability is being considered by an Exam Appeals Officer (AO)
- g. Separate CDP-Innocent Spouse (IS) WUNO

Note: Linked WUNOs that should be separate must be corrected through APS. See IRM 8.22.5.2.3.4, CSC Updates, below for instructions on making changes to the CSC.

(4) The following table contains examples:

Description	Linked WUNO	Separate WUNO
Taxpayer husband (TPH) and wife (TPW) jointly owe a Form 1040, U.S. Individual Income Tax Return, MFT 30 liability for 2017 and TPH also owes a separate MFT 30 for 2014		X
TPH and TPW owe a joint MFT 30 for 2017 and TPH also owes a separate MFT 55 Trust Fund Recovery Penalty (TFRP)		X
TPH and TPW owe joint MFT 30 for 2014 and 2015. The 2014 return was filed with TPH listed as the primary Social Security Number (SSN) and the 2015 return was filed with TPW listed as the primary SSN	X	
TPH and TPW owe joint MFT 30 for 2015. TPW submitted an IS claim for 2013. Refer to IRM 8.22.8.8.3, Appeals Processing of IS Claim Related to CDP Case , for account mirroring information.		X
Individual taxpayer owes MFT 30 and MFT 55.	X	
Individual taxpayer submits Form 12153 requesting CDP and EH for MFT 30 debts for years 2014 and 2015. The taxpayer is entitled to a CDP hearing for 2014 and an EH for 2015		X

Description	Linked WUNO	Separate WUNO
IRS issued two CDP notices on the same day as follows: <ul style="list-style-type: none"> • CDP levy notice for MFT 30 for years 2013 and 2014, and • CDP lien notice for MFT 30 debts for years 2012, 2013 and 2014 The taxpayer submitted a timely hearing request for both a CDP levy hearing for years 2013 and 2014 and a CDP lien hearing for years 2012, 2013 and 2014.		X
Individual taxpayer owes MFT 30 and Form 941 MFT 01 tax as a sole proprietor		X
Corporate taxpayer owes Form 941 MFT 01 and Form 1120 MFT 02	X	
A group of three shareholders operate three related hospitals as separate corporations with separate EINs		X

8.22.5.2.3.2
(09-30-2014)

CDP Case Type

(1) CDP cases are assigned one of the following case **TYPE** codes:

- **DPLN** for CDP lien
- **DPLV** for CDP levy
- **DPL2** for combination CDP lien and levy
- **CDPTD** for Separate Timeliness Determinations.

Note: Revenue officers (RO) identify combination CDP lien and levy cases as “CDP Both” on the Form 14461 and the ACS identifies such cases as “DPBO” on the Form 12153-B.

(2) Combination CDP lien and levy cases present challenges when making sure ACDS accurately captures the correct case type and tax periods. The following table has information and examples explaining how to verify the accuracy of the **TYPE** code in combination cases:

IF...	AND...	THEN...
Taxpayer was issued both CDP lien and CDP levy notices	Taxpayer checked both the “Filed Notice of Federal Tax Lien” and “Proposed Levy or Actual Levy” boxes on the Form 12153	Independently determine the timeliness of the hearing request for each CDP notice. See IRM 8.22.5.3.1 through IRM 8.22.5.3.1.5 below.
The taxpayer simultaneously requested a CDP hearing for both lien and levy	The hearing request is: <ul style="list-style-type: none"> • Timely - CDP lien • Timely - CDP levy 	Case TYPE = DPL2 Note: While a single DPL2 WUNO is preferred, do not correct if APS established separate DPLN and DPLV WUNOs.

IF...	AND...	THEN...
<p>The taxpayer requested and qualified for an EH</p> <p>Note: See also IRM 8.22.5.3.1.2 below for information on the timeframe for requesting an EH.</p>	<p>Hearing request is:</p> <ul style="list-style-type: none"> • Timely - CDP lien • Untimely - CDP levy 	<p>Requires two separate WUNOs:</p> <ul style="list-style-type: none"> • Case TYPE for WUNO one = DPLN (timely) • Case TYPE for WUNO two = DPLV with ACDS feature code EH
<p>The taxpayer requested and qualified for an EH for both lien and levy</p>	<p>Hearing request is:</p> <ul style="list-style-type: none"> • Untimely - CDP lien • Untimely - CDP levy 	<p>Case TYPE = DPL2 with feature code EH</p> <p>Note: While a single DPL2 WUNO with feature code EH is preferred, do not correct if APS established separate DPLN and DPLV WUNOs each with feature code EH.</p>
<p>Taxpayer checked both the "Filed Notice of Federal Tax Lien" and "Proposed Levy or Actual Levy" boxes on the Form 12153</p>	<p>Taxpayer was issued a CDP levy notice but not a CDP lien notice</p>	<ul style="list-style-type: none"> • Case TYPE = DPLV for the lone WUNO • Request for DPLN hearing is not valid because no CDP lien notice was issued <p>Note: See IRM 8.22.5.2.5 and IRM 8.22.5.2.5.1 below for information on closing non-processable requests.</p>
<p>Taxpayer checked the "Filed Notice of Federal Tax Lien"</p>	<p>Taxpayer was issued a CDP <i>levy</i> notice</p>	<p>Case TYPE = DPLV</p> <p>Note: Taxpayer is entitled to a CDP levy hearing even though the wrong box was checked on the Form 12153.</p>
<p>The taxpayer:</p> <ul style="list-style-type: none"> • Did not request an EH (either verbal or written) • Either specifically stated he or she did not want an EH or was unresponsive during Collection's efforts to perfect the hearing request 	<p>Hearing request is:</p> <ul style="list-style-type: none"> • Untimely - CDP lien and/or untimely - CDP levy 	<p>See IRM 8.22.5.2.5 below for instructions.</p>

IF...	AND...	THEN...
The taxpayer lists multiple tax periods on the Form 12153 and the hearing request is timely for some and untimely for others	The taxpayer: <ul style="list-style-type: none"> • Did not request an EH (either verbal or written) • Either specifically stated he or she did not want an EH or was unresponsive during Collection's efforts to perfect the hearing request 	See IRM 8.22.5.2.5 below for instructions.

- (3) It is vital that ACDS reflect the correct case type and tax periods due to the limit of one hearing per type of tax and tax period.

8.22.5.2.3.3 (08-31-2020)

Feature Codes

- (1) Feature codes identify cases with unique elements and assist in identifying trends, staffing and budget needs. CDP cases may have one or more feature code. The table below lists feature codes used in CDP and their description:

Feature Code	Description
DP	Related WUNO <ul style="list-style-type: none"> • Used with related OIC, Interest Abatement (ABINT), or IS WUNOs • Both the CDP and related WUNO must have the Feature Code
DR	Disaster Relief <ul style="list-style-type: none"> • Case involves taxpayer who was/is in presidentially declared disaster area
EH	Equivalent Hearing <ul style="list-style-type: none"> • Taxpayer's request for a CDP hearing was not timely
EI	Earned Income Tax Credit (EITC) issue considered as part of CDP case.
EZ	Paperless CDP Case <ul style="list-style-type: none"> • Prior to 10/23/2018
FV	Frivolous or delaying argument raised
ID	Identity Theft indicator
LI	Liability issue
PL	Paperless Case <ul style="list-style-type: none"> • Beginning 10/23/2018
PY	Rapid Response Appeals Process cases
RB	Restitution Based Assessment <ul style="list-style-type: none"> • One or more of the liabilities includes a restitution based assessment
RI	Referral Investigation

Feature Code	Description
RJ	Retained Jurisdiction
SD	Spousal Defense <ul style="list-style-type: none"> IS claim is under consideration as part of CDP case
T1	Economic hardship Taxpayer Advocate Service (TAS) case
T5	Systemic hardship TAS case
TR	Transferred in from another Appeals area

8.22.5.2.3.4
(08-31-2020)
CSC Updates

- (1) Hearing officers may input CSC changes such as:
 - Taxpayer address and telephone number
 - POA name, address and telephone number
 - Most ACDS feature codes
 - Add or removed ACDS feature code "EH"
- (2) Submit an ACDS Update Request Form to APS to request other necessary changes, such as:
 - Taxpayer name
 - SSN or EIN
 - MFT Code
 - Tax year or period
 - CDP case type (DPLV, DPLN, etc.)
- (3) If a taxpayer states they only want the hearing to apply to a specific period(s), submit an ACDS Update Request Form to APS to:
 - a. Remove the non-hearing periods from the WUNO
 - b. Input IDRS TC 522 to reverse the TC 520 closing code (cc) 76/77 on non-hearing periods
 - c. Input a TC 972 for any periods that were included on Form 12153-B or Form 14461 in error and need to be removed from the CSC.

8.22.5.2.4
(08-31-2020)
Imperfect Hearing Request

- (1) During your review, you may discover a taxpayer's hearing request lacks necessary information. It is important to distinguish between **non-processable** and **incomplete** hearing requests.
- (2) **Non-processable:** A hearing request missing any of the following is *invalid*:
 - a. Signature of the taxpayer or taxpayer's authorized representative

Note: The hearing request is not processable if the Form 12153 is signed by someone not authorized to sign on behalf of the taxpayer, such as a spouse, unenrolled return preparer, attorney, Certified Public Accountant (CPA) or enrolled agent with no Form 2848, Power of Attorney and Declaration of Representative.
 - b. TIN, such as an Individual Taxpayer Identification Number (ITIN), SSN or EIN, and it can't be located in the documents submitted with the CDP

- request, such as a Form 433-A, Collection Information Statement for Wage Earners and Self-Employed Individuals, cover letter, Form 2848
- c. A statement that the taxpayer requests a hearing with Appeals (built into Form 12153). If the taxpayer did not submit Form 12153, but it is evident that the taxpayer is requesting a hearing, the requirement has been met. For example, if the taxpayer provides their name, address, TIN, and the tax and period at issue, and IRS records show that a CDP notice was recently sent to the taxpayer, then the taxpayer has met this requirement. Similarly, if the taxpayer attached the CDP notice, the taxpayer has also met the requirement.
 - d. The reason(s) why the taxpayer disagrees with the collection action (may simply be a checked box on Form 12153). If the taxpayer checks "other", the taxpayer still needs to have provided a reason in the remarks section or in an attachment to the Form 12153.
- (3) It is not Appeals' role to perfect an invalid hearing request. If a hearing request is invalid, see IRM 8.22.5.2.5.1, Non-Processable Hearing Request, and return the case to Collection as a premature referral per IRM 8.22.5.2.5.
 - (4) **Incomplete:** A hearing request missing information easily obtained from an internal database and/or information submitted by the taxpayer is *valid*. In such an instance, proceed with the hearing. Examples include:
 - a. Taxpayer's name is missing from Form 12153, Block 1, but a copy of the CDP notice reflecting the taxpayer's name was attached
Note: If the tax liability is jointly owed and the taxpayers did not list either name on Form 12153 but attached a copy of the CDP notice, consider the request to be a joint request if jointly signed.
 - b. Taxpayer did not put mailing address on Form 12153, but it can be retrieved from IDRS.
 - c. Taxpayer did not list the tax or tax periods on Form 12153, but a copy of the CDP notice was attached.
 - d. TIN not listed on Form 12153, but is listed in a cover letter or can be identified through IDRS.
 - (5) If the CDP notice lists multiple tax periods and the taxpayer did not list any tax periods on the Form 12153, consider the request for a hearing to be for all periods listed on the CDP notice.

8.22.5.2.5
(08-11-2017)

Premature Referrals

- (1) A taxpayer's right to a CDP hearing is statutory. Appeals may not release jurisdiction of a CDP by returning a case to Collection as a premature referral **unless**:
 - a. The hearing request is not processable - see IRM 8.22.5.2.5.1 below, or
 - b. Collection issued the CDP notice erroneously - see IRM 8.22.5.4.2.4.2 below for examples

Caution: Errors or omissions by Collection in preparing Form 14461 or 12153-B referral forms are **not** reasons to return a case as a premature referral.
- (2) For premature referral cases, input the following on the Form 5402:
 - Closing Code = 20
 - Instruct APS to input **TC 522 instead of TC 521**

- (3) An attachment or Appeals Case Memorandum (ACM) is not prepared since Appeals did not conduct a legal and administrative analysis.
- (4) An untimely CDP hearing request is not automatically treated as an EH request, which can occur if Collection forwarded the case to Appeals as a timely CDP hearing, the taxpayer did not request an EH and the hearing officer determines:
 - a. The request for a hearing was not timely, or
 - b. That one or some periods are timely and one or some periods are not timely in a case involving multiple periods.
- (5) The following table contains examples and procedures when the above occurs:

IF...	AND...	THEN...
Collection forwarded a case to Appeals as a timely CDP case involving a single CDP notice	Appeals determines the hearing request was not timely and the taxpayer did not request an EH	Take the following steps to close out the DPLX WUNO: <ol style="list-style-type: none"> Request APS change the WUNO from CASE TYPE = DPLX to CASE TYPE = CDPTD Follow IRM 8.22.5.9.1 below for closing out a CDPTD determination using cc 14
Collection issued separate CDP levy notices for 201809 and 201812 and forwarded the case to Appeals as a timely DPLV case for both periods	Appeals determines the hearing request was timely for 201812 but not timely for 201809 and the taxpayer did not request an EH	<ol style="list-style-type: none"> Request APS remove the 201809 period and create a CDPTD WUNO for that period, Close the newly created CDPTD WUNO for the 201809 period using cc 14, and Proceed with the CDP hearing for 201812
Collection forwarded a case to Appeals as a timely DPL2 case for period 2018	Appeals determines the hearing request was timely for CDP lien but not timely for CDP levy and the taxpayer did not request an EH	<ol style="list-style-type: none"> Request APS change the DPL2 case to a DPLN and create a CDPTD WUNO for the untimely CDP levy Close the newly created CDPTD WUNO for the untimely CDP levy using cc 14, and Proceed with the CDP hearing for the timely DPLN case

Example: On different dates, Collection issued a CDP levy notice for Form 941 liabilities 6/30/2015 and 9/30/2015; and a CDP lien notice for Form 941 liabilities 12/31/2015 and 3/31/2016. The taxpayer submitted a single Form 12153 requesting only a CDP hearing. The RO determined Form 12153 was submitted timely for both a CDP lien and levy hearing. APS carded in a DPLV WUNO for 01/201206 and 01/201509, and a DPLN WUNO for 01/201512 and 01/201603. Appeals determined the hearing request was timely for a CDP lien hearing but was not timely for a CDP levy hearing. Submit a request to APS to have the DPLV WUNO changed to CDPTD WUNO. The CDPTD is closed out using cc 14 and proceed with the CDP lien hearing.

Example: On different dates, Collection issued a CDP lien and levy notice for Form 941 liabilities for periods 3/31/2016 and 6/30/2016. The taxpayer submitted a single Form 12153 requesting only a CDP hearing. The RO determined Form 12153 was submitted timely for both a CDP lien and levy hearing. APS carded the case in as a DPL2 WUNO. Appeals determined the hearing request was timely for a CDP lien hearing but was not timely for a CDP levy hearing. Submit a request to APS to have the DPL2 WUNO changed to a DPLN and to have a CDPTD WUNO created for the CDP levy. The CDPTD is closed out using cc 14 and proceed with the CDP lien hearing.

8.22.5.2.5.1
(08-11-2017)

Non-Processable Hearing Request

(1) It is not Appeals' role to perfect an invalid hearing request. Cases with one or more of the following are not processable and must be returned to Collection as a premature referral:

- a. No CDP notice was issued
- b. The request for hearing was made before the IRS issued a CDP notice
- c. A CDP notice was issued but it is the second such notice for the same period and assessment
- d. A CDP notice was issued but the taxpayer waived all rights to an Appeals hearing, including a CDP hearing, on Form 906, Closing Agreement on Final Determination Covering Specific Matters
- e. The taxpayer did not sign the hearing request

Note: A Form 12153 is considered valid and processable if the taxpayer or the authorized representative signed correspondence attached to the Form 12153 but failed to sign the Form 12153 itself.

Note: The regulations do not authorize a digital or electronic signature with a CDP hearing request. A digital or electronic signature is considered a signature-related flaw that Collection is responsible to correct with the taxpayer.

Note: If only one spouse signed the CDP hearing request with respect to a joint liability, consider the hearing request valid for the requesting spouse but not for the non-requesting spouse.

- f. The hearing request was signed by a person not authorized to represent the taxpayer, including the taxpayer's non-liable spouse or other unauthorized representative
- g. The hearing request failed to list a reason for the dispute, which includes failure to check a box on Form 12153 and failure to list a reason in attached correspondence

Note: Collection can orally secure the reason for the dispute from the taxpayer and document the reason in the case file **PROVIDED** the dispute is not frivolous. The taxpayer does not need to make a further written submission for non-frivolous issues.

Description	Request Processable?
Taxpayer checked the "Installment Agreement" box on the Form 12153 but wrote nothing in the remarks and provided no further details.	Yes

Description	Request Processable?
Taxpayer checked the "Other" box but wrote nothing in "remarks" or in an attached letter. The RO offered the taxpayer an opportunity to provide a reason for the dispute. The taxpayer called the RO and stated the Notice of Federal Tax Lien (NFTL) is causing financial problems and she would like to discuss payment options.	Yes
Taxpayer checked the "Other" box on Form 12153 but wrote nothing in "remarks" or in an attached letter. The RO offered the taxpayer an opportunity to provide a reason for the dispute, but the taxpayer did not respond within the timeframe given by the RO.	No, because the taxpayer did not list a reason for the dispute

h. The hearing request does not have a valid SSN, ITIN, or EIN and a valid one can't be obtained from an internal IRS database

- (2) If Collection received a timely but incomplete request for a CDP or EH hearing and the taxpayer perfected the request with Collection sufficient to make it processable, then the hearing request is considered timely filed and may not be returned as a premature referral. See Treas. Reg. 301.6320-1(c) and 301.6330-1(c).

Example: Collection issued a CDP levy notice on 9/15/2018. Form 12153 was signed by the taxpayer's representative 10/7/2018 and mailed the same day. Collection determined there was no valid Form 2848 on file for the representative. Collection contacted the taxpayer and asked for a Form 2848 listing the representative as POA. The taxpayer submitted a properly executed Form 2848 within the time period specified by Collection, so the hearing request is processable.

- (3) The following cases are **not** premature referrals. Instead, work these as separate timeliness determinations as per IRM 8.22.5.9, Collection Due Process Timeliness Determinations (CDPTD):
- Late filed CDP hearing request in which the taxpayer or authorized representative failed to request an EH
 - Late filed EH request
- (1) A taxpayer may withdraw a request for CDP hearing or EH at any point prior to the issuance of the NOD or Decision Letter. Once a request is withdrawn, the taxpayer may not request another hearing on the same tax and periods. Administrative appeal is still available through the Collection Appeals Program (CAP).
- (2) If a taxpayer withdraws from a CDP hearing but then rescinds that withdrawal prior to issuance of the closing letter by Appeals, continue with the hearing. The request to rescind the hearing may be made orally or in writing. Document the CAR.

8.22.5.2.6
(08-31-2020)
CDP Withdrawals

- (3) Form 12256, Withdrawal of Request for Collection Due Process or Equivalent Hearing, may be used to withdraw a CDP or EH request. While Form 12256 is preferred, any written request clearly indicating a request to withdraw is honored.

Note: EH requests may be verbally withdrawn.

- (4) The most common reasons for withdrawal are the taxpayer:
- Resolves the issue with Collection
 - Realizes he/she is unable to resolve the CDP issues with Appeals due to compliance issues or the statutory preclusion of liability

Note: A taxpayer may be eligible to have the case placed in Currently Not Collectible (CNC) status despite compliance issues.

- (5) If Collection receives a withdrawal from the taxpayer *after* sending the case to Appeals, Collection forwards the withdrawal to Appeals to associate with the CDP case.
- (6) The legal and administrative review is not required when a taxpayer withdraws a hearing request. Advise the taxpayer seeking withdrawal that he/she is giving up Appeals' legal and administrative verification. Use Letter 4383, Collection Due Process / Equivalent Hearing Withdrawal Acknowledgement, to communicate the withdrawal to the taxpayer.
- (7) Request a withdrawal using Letter 4388, Withdrawal Solicitation, when:
- The taxpayer's only issue is a collection alternative that was granted by Collection
 - The CDP liability was full paid and the taxpayer isn't raising IS or ABINT

Allow the taxpayer 14 days from the date of Letter 4388 to withdraw.

- (8) If the taxpayer does not withdraw, issue the Substantive Contact Letter (SCL) letter and schedule a hearing.
- (9) If the taxpayer and you reach an agreed resolution, do not request a withdrawal. Instead, see below:
- For timely CDPs:** Request the taxpayer sign and return Form 12257, Summary Notice of Determination and Waiver of Judicial Review, which protects the taxpayer's right to a retained jurisdiction hearing.
 - For EH cases:** Issue Letter 5145, Agreed Equivalent Hearing Closing Letter.
- (10) Withdrawal of the CDP does not withdraw an OIC submitted as part of the CDP process. The taxpayer must **separately** withdraw the OIC in writing.
- (11) If the taxpayer inquires about options for raising liability outside of the CDP, you may discuss claim or audit reconsideration procedures found at Pub 3598, What You Should Know About the Audit Reconsideration Process, or Pub 556, Examination of Returns, Appeal Rights, and Claims for Refund.
- (12) A taxpayer may choose to withdraw some, but not all, periods on a CDP notice. If so, take the following actions:

- a. Note the request in the CAR
- b. Request APS remove the withdrawn periods from the CSC, establish a new CSC for the withdrawn periods and assign the new case to you
- c. The new CSC has the same carding information but with a new WUNO
- d. Copy and paste the CAR entries from the original case to the new case

8.22.5.3
(08-31-2020)
**CDP Statute Verification,
Controls and
Documentation**

- (1) This section contains information and instructions for determining the timeliness of the CDP and/or EH requests and documentation requirements.

8.22.5.3.1
(08-31-2020)
**Determining Timeliness -
General Procedures**

- (1) The taxpayer's request for a CDP hearing must be in writing and requested within the prescribed time period. Some CDP notices contain both an address for requesting a hearing and an address for making payments. The written request for a CDP hearing should be sent or hand-delivered to an IRS office and address as directed on the CDP notice.
- (2) If a taxpayer mistakenly sends a timely hearing request to a different address on the notice, treat the postmark or transmission date as the date to determine timeliness.
- (3) The following table reflects the requirements for various manners of delivery:

Delivery Method	How Hearing Request Must be Made
Mail	Timely mailed to an IRS address listed in the CDP notice.
Fax or E-fax	Timely transmitted to the fax or E-fax number listed in the CDP notice.
Hand-Delivery	Timely received at the address of an IRS office listed in the CDP notice. See IRM 8.22.5.3.1.3 for guidance on hand-delivery to an IRS Taxpayer Assistance Center (TAC).

Note: A taxpayer may also respond by submitting their hearing request to an RO. If timely submitted by mail, fax, E-fax or hand-delivery to the RO, consider the request timely.

- (4) Timely mailing is treated as timely filing/submitting as per IRC 7502 and IRC 7503.

Note: However, 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.

IF...	AND...	THEN...
The due date for filing a timely hearing request is a Saturday, Sunday or legal holiday	The postmark, meter date or fax transmission date is for the next business day after the Saturday, Sunday, or legal holiday	It is timely
The received date is after the due date for filing a timely hearing request	Postmarked or metered timely, or if the fax transmission date is timely	It is timely

Example: The 30th day for a timely request falls on Sunday, August 7, 2018. The taxpayer faxes the request to the fax number listed in the CDP notice on Monday, August 8, 2018. The request is timely.

Example: The taxpayer mails his CDP hearing request to the Atlanta campus, where he filed his tax return, not to the Philadelphia campus as directed in the CDP notice. Atlanta received the request on Wednesday, September 7, 2018. On September 8, 2018, an Atlanta campus employee faxed the request to Philadelphia, the correct CDP unit. The due date for requesting a CDP hearing was September 7, 2018. The request was timely received.

- (5) Notice 2016-30, 2016-18 IRB 676, *Designated Private Delivery Services*, lists the designated Private Delivery Service (PDS) providers for purposes of the timely mailing treated as timely filing/paying rule of IRC 7502. The currently designated PDS providers are DHL Express (DHL), Federal Express (FedEx), and United Parcel Service (UPS). If the postmark is made by a non-USPS system, such as a private postage meter stamp or a designated PDS, Treas. Reg. 301.7502-1(c) requires **both** of the following to be considered timely:
 - a. A legible postmark must be dated on or before the due date, and
 - b. The appeal must be received by the required IRS office not later than the time that a letter sent by the same class of mail would ordinarily have been received if it were sent from the same point of origin via the USPS on the last day for timely mailing the appeal.
- (6) IRC 7508 and IRC 7508A postpone certain time-sensitive acts when a person is serving in the Armed Forces in a combat zone or serving in support of such Armed Forces, or there is a presidentially declared disaster. Rev. Proc. 2018-58 includes the time period for requesting a CDP lien or CDP levy hearing as acts that may be postponed. Though not specifically listed in Rev. Proc. 2007-56, IRC 7508 and IRC 7508A apply to EH requests as well.
- (7) There are times when the envelope is missing or the postmark, meter or fax transmission date is not legible.

If...	Then...
Postmark or mail meter date is not legible	Ask the taxpayer when the request was mailed. If the taxpayer appears credible, use that date. If you can't reach the taxpayer or the taxpayer is not credible, subtract three days for regular mail and seven days for overseas mail from the IRS received date
Fax transmission date is not legible	Use the date the IRS received the request unless the taxpayer otherwise provides proof of timely fax transmission
There is no IRS received date	Use the signature date
There is no IRS received date or signature date	Consider timely if received within 45 days of date required to be timely

- (8) The CDP notice sent to the taxpayer is the controlling notice for determining timeliness. The letter transmitting the POA's copy of the CDP notice and the taxpayer's CDP notice should have the same issuance date. However, if the POA sends his/her copy of the CDP notice with the hearing request, verify that the POA's copy and the taxpayer's controlling copy have the same issuance date.
- (9) If the POA's copy of the CDP notice does not match the date of the taxpayer's CDP notice, you must use the taxpayer's copy. The courtesy copy sent to the POA does not meet the requirements of IRC 6320(a)(2) and IRC 6330(a)(2), which are:
 - a. Delivered the notice personally to the taxpayer;
 - b. Left at the taxpayer's dwelling or usual place of business; or
 - c. Sent by certified or registered mail to the taxpayer's last known address
- (10) The CDP hearing must include the tax periods on the taxpayer's CDP notice in the hearing. Do not include additional tax periods listed on the POA's letter.

8.22.5.3.1.1
(08-11-2017)
CDP Statute Suspension

- (1) A timely and valid request for a CDP hearing suspends the statutory periods of time permitted for the following:
 - a. IRC 6502, collection after assessment
 - b. IRC 6531, relating to criminal prosecutions
 - c. IRC 6532, relating to suits
- (2) The suspension period starts on the date the IRS receives the taxpayer's written request for a CDP hearing and continues until one of the following occurs:
 - a. IRS receives a taxpayer's written withdrawal of the request for a CDP hearing,
 - b. A NOD becomes final upon either the expiration of the time for seeking judicial review or upon exhaustion of any rights to appeals following judicial review, or

- c. A Form 12257 is secured and signed by both the taxpayer and the delegated Appeals official.

- (3) In no event shall any of the periods of limitation expire before the 90th day after the day on which there is a final determination with respect to such hearing. See Treas. Reg. 301.6330-1(g).
- (4) See IRM 8.22.5.3.3 below for statute verification, control and documentation, including TC 520 requirements.

8.22.5.3.1.2
(03-29-2012)

**Determining Timeliness -
Equivalent Hearing (EH)**

- (1) **Caution:** Review the Determining Timeliness - General Procedures section in IRM 8.22.5.3.1 before reviewing this subsection on EH timeliness determinations.
- (2) A taxpayer who fails to make a timely request for a CDP hearing is not entitled to a CDP hearing, but may request an administrative Appeals hearing, which is referred to as an EH. The EH is held by Appeals and follows Appeals procedures for a CDP hearing.
- (3) A taxpayer must submit a written request for an EH within the one-year period beginning:
 - a. **Levy** - The day after the date of the CDP levy notice
 - b. **Lien** - The day after the end of the five-business-day period following the filing of the NFTL

Note: The NFTL is considered to be filed as of the date the NFTL is received by the recording office

- (4) Late-filed CDP hearing requests are not automatically classified as EH requests. The taxpayer requests an EH by:
 - a. Checking the EH box on Form 12153,
 - b. Otherwise indicating in writing that he/she wants an EH if the CDP hearing request is untimely, or
 - c. Verbally confirming to Collection that he/she wants the untimely CDP hearing request to be treated as an EH when notified by Collection of the untimely CDP hearing request
- (5) The taxpayer must affirmatively respond to Collection in order to be entitled to an EH.
 - a. The affirmative response may be verbal
 - b. The taxpayer need not submit an additional request form
 - c. Collection documents the taxpayer's verbal request

IRM 5.1.9.3.2.3, Perfection of Hearing Requests, (field), and IRM 5.19.8.4.3.2, Perfection of Timely Equivalent Hearing Requests, (ACS), contain Collection's procedures.

- (6) If the taxpayer disagrees with Appeals' decision that the request for a CDP hearing was not timely, the SCL informs the taxpayer that he/she "may appeal to the appropriate court if you disagree with our decision that your hearing request was late."
- (7) See IRM 8.22.5.2.5 for procedures if Collection forwarded an untimely request for a CDP hearing and the taxpayer did not request an EH.

8.22.5.3.1.3
(03-29-2012)
Determining Timeliness - Taxpayer Assistance Center (TAC) Receipts

- (1) Treas. Regs. require timely written filing of a CDP hearing request with the office indicated on the CDP notice. However, IRC 6091 permits more flexibility with respect to hand-delivered hearing requests. If a taxpayer **hand delivers** the CDP hearing request to a local TAC, the request is timely if received no later than:
 - a. 30 days from the date of the CDP levy notice, or
 - b. The “must file by” date on Letter 3172, Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320
- (2) A TAC employee receiving a CDP hearing request via hand-delivery should date stamp and initial the hearing request, then mail or fax the request to the appropriate Collection office listed on the CDP notice.
- (3) A hearing request **mailed** to a TAC office is not considered properly filed.

8.22.5.3.1.4
(08-31-2020)
Determining Timeliness - Levy

- (1) **Caution:** Review the Determining Timeliness - General Procedures section in IRM 8.22.5.3.1 before reviewing this subsection on determining timeliness in CDP levy cases.
- (2) The CDP levy hearing request must be postmarked or received within the 30-day period commencing the day after the date of the CDP levy notice. The beginning of the 30-day period is determined by:
 - a. The date of the taxpayer’s CDP levy notice, if attached to the Form 12153 or otherwise obtainable

Note: A request for a CDP hearing that precedes the issuance date of a CDP notice is **not** timely even if actual receipt of the request is **after** the issuance of the CDP notice.

- b. The date of IDRS TC 971 AC 069
- c. The entry from the CDP-CMR

Note: See rules regarding metered mail in IRM 8.22.5.3.1 above.

Note: ACS Letter LT11 is available on Control-D through the ACS CDP Coordinators. ACS also enters the USPS received date on the CDP-CMR. See the Appeals CDP SharePoint for links entitled ACS CDP Coordinators, for Control-D information. Also available on the Appeals CDP intranet page is the Support Work Link to Request SNOD/CML, through which requests may be made to secure a SNOD and/or CML.

- (3) The following ACs associated with the TC 971 entry may show the result of issuing the CDP levy notice:

IF...	THEN...
AC 066	The certified mail return receipt was signed (not necessarily by the taxpayer), so the notice was delivered. If the TC 971 AC 066 and the TC 971 AC 069 have the same date, the CDP levy notice was given in person.

IF...	THEN...
AC 067	Delivery was refused or the CDP levy notice was unclaimed. If the TC 971 AC 067 and the TC 971 AC 069 have the same date, the CDP levy notice was left at the taxpayer's home or business address.
AC 068	The CDP levy notice was returned not delivered.

- (4) Collection should only issue one CDP levy notice per tax period and there should only be one TC 971 AC 069 posted for that period.

Exception: Collection must issue separate CDP notices to husband and wife when the tax period involves a joint liability. When separate notices are sent for a joint liability, the secondary taxpayer's SSN is referenced on the second TC 971 AC 069 entry. This distinguishes the primary and secondary taxpayer's CDP notices.

Exception: For partnerships, Collection may issue separate notices to individual partners as well as the partnership entity.

- (5) Collection inputs a TC 972 AC 069 to reverse a TC 971 AC 069 if the CDP levy notice was:
- Not issued (Collection decided not to mail the notice)
 - Not issued to the last known address
 - Rescinded because it was issued erroneously
- (6) For ACS cases, the TC 971 AC 069 does not post to IDRS unless the notice is physically presented to the post office. The electronic response from the post office posts the 971 AC showing the delivery status and provides the IRS with an electronic copy of the signature of the person who signed for the notice.
- (7) Use the following table to determine timeliness when a second CDP levy notice is issued:

IF...	AND...	THEN...
More than one CDP levy notice was issued and a TC 972 AC 069 was not input for the first notice	There is no record of the delivery of the first CDP levy notice	Use the second CDP levy notice to determine timeliness (this is especially applicable when the taxpayer denies receiving the first CDP levy notice)
More than one CDP levy notice is issued and a TC 972 AC 069 was not input for the first notice	Delivery of the first CDP levy notice is verified	Use the first CDP levy notice to determine timeliness

- (8) IRS issues systemic levies through the Federal Payment Levy Program (FPLP). Sometimes the systemic FPLP levy is issued while the case is

assigned to an RO. If this happens, and the RO tells the taxpayer to mail the CDP hearing request to the RO, determine timeliness by either the postmark date or the date received at the RO address even though the RO's address is not the address in the notice.

- (9) 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 the incorrect office to determine timeliness.

8.22.5.3.1.5 (12-03-2025)

Determining Timeliness - Lien

- (1) **Caution:** Review the Determining Timeliness - General Procedures section in IRM 8.22.5.3.1 before reviewing this subsection on determining timeliness in CDP lien cases.
- (2) Collection requests input of TC 971 AC 252 (indicating a notice was mailed) within 10 business days of requesting the NFTL. Within five business days of receipt of returned mail, Collection requests input one of the following to each tax period listed on the NFTL:
 - a. AC 253 = Undelivered
 - b. AC 254 = Unclaimed
 - c. AC 255 = Refused
- (3) Collection scans the CDP lien notice and envelope, and attaches them as part of the ICS history. If scanning is not available, Collection retains the hard copy in the case file and documents ICS with the return mail status.
- (4) If the return envelope is not available, Appeals relies on the above ACs and a copy of Letter 3172 available on the Automated Lien System (ALS).
- (5) The CDP lien hearing request must be postmarked or received on or before the "must file by" date in Letter 3172.
- (6) IRC 6320 provides the right to a CDP hearing when an assessment is included on an NFTL for the first time. However, over time, additional assessments may be made for the same type of tax and tax period (e.g., TC 290, TC 300, TC 240). A CDP notice must be issued for any NFTL filed on an additional assessment that was not included on a previous NFTL.
- (7) The date the NFTL is considered filed with the appropriate recording office is the date the NFTL is received by the recording office, not the date it was recorded. Because the IRS does not obtain this date from the recording office, the IRS uses an estimated filing date on the Letter 3172 to provide the taxpayer with a "must file by" date. The estimated filing date is calculated by adding three business days to the NFTL mailing date. The "must file" date is then determined by adding five business days plus 30 calendar days to the estimated filing date.

Example: Must File by Date = Estimated filing date (NFTL mailing date + 3 business days) + 5 business days + 30 calendar days. So, for an NFTL mailed Friday, 1/31/2025, Must File by Date = 3/14/2025. 1/31/2025 NFTL mailing date +3 business days is 2/5/2025. 5 business days later is 2/12/2025. 30 calendar days later is 3/14/2025.

- (8) If the taxpayer disagrees that their request was late, allow them to document that the actual date of receipt by the recording office was later than the

estimated filing date. In such an instance, determine timeliness by adding five business days plus 30 calendar days to the actual date of receipt.

- (9) If the taxpayer maintains the hearing request was late because Letter 3172 was sent to the wrong address, look at the taxpayer's copy, ALS or the returned mail to verify it was issued to the taxpayer's last known address.

Note: However, 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.

8.22.5.3.1.5.1

(09-30-2014)

CDP Lien Hearing - NFTL Not Recorded

- (1) If you discover an NFTL was filed by the IRS but not recorded by the recording office, continue with the CDP hearing as Letter 3172 is valid.
- (2) If Appeals held a CDP lien hearing and issued a NOD unaware the NFTL was not recorded, and IRS subsequently files an NFTL and issues a second Letter 3172, the taxpayer is not entitled to a CDP lien hearing based on the second Letter 3172.

8.22.5.3.1.5.2

(09-30-2014)

CDP Lien Hearing - Collection Withdraws NFTL

- (1) If Collection withdraws an NFTL without rescinding Letter 3172, the taxpayer is entitled to request and receive a CDP lien hearing.
- (2) If Appeals conducts a CDP/EH lien hearing in this circumstance, the taxpayer is not entitled to a second CDP lien hearing if/when Collection files the NFTL again.

8.22.5.3.1.5.3

(09-30-2014)

CDP Lien Hearing - Revocation of Certificate of Release

- (1) A taxpayer is entitled to a CDP lien hearing when an NFTL is filed after the revocation of a release of lien and they did not previously receive a Letter 3172 for the tax periods involved. Letter 3172 is issued for NFTLs filed after the effective date of IRC 6320 (January 19, 1999) even if an NFTL was previously filed prior to the effective date.
- (2) Taxpayers who are not entitled to a CDP lien hearing or EH are still entitled to an appeal through the CAP.

8.22.5.3.2

(12-03-2025)

Equitable Tolling

- (1) Equitable tolling pauses the running of, or "tolls," a statutory period in cases where taxpayers pursued their rights diligently, but some extraordinary circumstance that was beyond their control prevented compliance with the statutory period. The 30-day deadline to request a timely CDP hearing and the one-year deadline to request an EH are subject to equitable tolling based on facts and circumstances of the case. This means a CDP request submitted after the 30-day deadline could be considered a timely request and a request for hearing submitted after the one-year deadline could be considered timely for an EH, if warranted. Taxpayers may raise tolling as an issue in the CDP request or at any time during the hearing process.

Note: Taxpayers are not required to specify the term "equitable tolling." Any reasons given to support the CDP request being considered timely or that the request should be entitled to judicial review constitutes raising equitable tolling.

- (2) To be entitled to equitable tolling the taxpayer must prove both diligence and extraordinary circumstances.

- a. Diligence covers affairs within the taxpayer's control.
- b. Circumstances that caused the delay must be both extraordinary and beyond the taxpayer's control.

Note: The Supreme Court has described the high bar required for equitable tolling, saying that equitable tolling should be applied only sparingly and not to cases involving a garden variety claim of excusable neglect.

- (3) Diligence must be proven with specific facts on a case-by-case basis, rather than by a conclusory assertion that the taxpayer acted diligently. Taxpayers cannot merely state they acted diligently or were diligent as a consequence of job title, such as a corporate officer.
- (4) Equitable tolling does not depend on missing a deadline by a set amount of time or number of days. The reason for missing the deadline must demonstrate the taxpayer was diligent and the circumstances were extraordinary and beyond the taxpayer's control.
- (5) Courts have recognized that certain reasons, by themselves, do not justify the application of equitable tolling. For example:
 - Filing as a pro se person (self-represented individual)
 - Confusion or misunderstanding about the law
 - Barely missing a filing deadline

EXAMPLE: Collection received the CDP request five days after the due date, but the postmark shows it was mailed only one day late. Unless taxpayers can show specific facts that extraordinary circumstances beyond their control prevented timely filing, missing the deadline by a short amount of days, by itself, does not merit equitable tolling.

EXAMPLE: A taxpayer argues equitable tolling should apply to a CDP request that was several months late based on mental incapacity. The taxpayer was diagnosed with paranoid schizophrenia. A psychiatrist described the illness as crippling and exceedingly disorienting, noting the taxpayer was not getting help due to being severely impaired and paranoid. Tolling may be warranted if the taxpayer's mental condition limited the ability to reason and function in society to the point of being unable to make a timely hearing request.

EXAMPLE: The reason given for submitting a late CDP request was that the taxpayer simply couldn't get it filed on time. Equitable tolling is not warranted based solely on a conclusory assertion that the taxpayer couldn't file on time.

- (6) Equitable tolling is not available in common situations. For example, courts have found that equitable tolling is not warranted where the person who missed the statutory deadline:
 - a. did not notify the agency of a change in address,
 - b. was not diligent in checking the mail,
 - c. could have filed on time,
 - d. did not understand the law, or
 - e. was represented by an attorney who made a mistake.
- (7) If uncertainty remains after consulting the ATM and, if necessary, Area Technical Advisor, settlement officers may obtain legal advice from the Office of

Chief Counsel to determine if equitable tolling applies to a particular situation. See Rev. Proc. 2012-18 §§ 2.02(3), (10).

8.22.5.3.2.1
(12-03-2025)
**If Equitable Tolling
Criteria are Not Met**

- (1) If equitable tolling criteria are not met for the CDP deadline and you determine the taxpayer is entitled to an Equivalent Hearing (EH), continue with the EH. Clearly document how you reached this decision in the Case Activity Record (CAR). See IRM 8.22.9.6.6 on addressing this issue in the ACM. See IRM 8.22.5.3.1.2 if the taxpayer's request for a CDP hearing is untimely and the taxpayer did not request an EH
- (2) If equitable tolling criteria are not met for an EH and there are no tax periods eligible for an EH, then you will convert the EH to a CDPTD and follow procedures in IRM 8.22.5.9.

8.22.5.3.2.2
(12-03-2025)
**If Equitable Tolling
Criteria are Met**

- (1) If equitable tolling criteria are met for a timely request for a CDP hearing, then update the CSC:
 - Remove feature code EH, if present
 - Update statute code to SUSP
 - Remove statute date
 - Request APS input TC 520 using the date of submission
 - Enter 'ET' in the LOC7 field
- (2) If equitable tolling criteria are met for an EH, but not a timely CDP, then update the CSC:
 - Add feature code EH, if not already present
 - Update statute code to CSED
 - Add correct statute date
 - Request APS remove TC 520 cc 76/77, if present, and input TC 971 AC 278 using the date of submission.
 - Enter 'ET' in the LOC7 field.

8.22.5.3.3
(12-03-2025)
**Documentation
Requirements - CDP
Statute Controls and
Verifications**

- (1) Verify and document the following in the CAR **within 30 days of receipt of a case**:
 - a. Whether the request for hearing was timely
 - b. If timely, that the statute is suspended on IDRS with the correct date and closing code
 - c. The statute on the CSC is correct
 - d. For EH cases only, the CSC displays the earliest CSED

Reminder: Instructions regarding the timeliness determination are found in IRM 8.22.5.3.1 through IRM 8.22.5.3.1.5 above.

- (2) IDRS TC 520 with the following closing codes are used to systemically suspend the statutory period of limitation on collection after assessment, or CSED:
 - **76** - CDP lien (Case Type = DPLN on ACDS) or combination CDP lien and levy (Case Type = DPL2 on ACDS) cases
 - **77** - CDP levy (Case Type = DPLV on ACDS) case

Reminder: EH cases must not have a TC 520 on any of the tax periods since the CSED is not suspended.

- (3) The following table reflects the TC 520 cc 76/77 dates for various manners of delivery and receipt of the hearing request. Note that a CDP notice may contain more than one address for a taxpayer's response (for example, the address for submitting the hearing request and the address for submitting the payment voucher). A taxpayer may inadvertently send the hearing request to an address on the notice other than the one for requesting a hearing.

If the hearing request is delivered by mail to any of the addresses shown on the CDP notice...

And was received...	And is postmarked...	For delivery to...	Then the TC 520 cc 76/77 date is...
Timely	Timely	An IRS address listed in the CDP notice	The received date
Untimely	Timely	An IRS address listed in the CDP notice	The postmark date

If the hearing request is hand-delivered...

And was received...	And delivered to...	The TC 520 cc 76/77 date is...
Timely	The person named in the CDP notice or any IRS TAC	The received date
Timely	At an address (besides a TAC) other than as directed on the CDP notice	The request is not timely. No TC 520 cc 76/77 date is input

If the hearing request is submitted electronically (via fax or E-fax)...

And was received...	And received by...	Then the TC 520 cc 76/77 date is...
Timely	An IRS fax or E-fax number listed in the CDP notice	The date of transmission by the <u>sender</u>

Note: A sender's electronic transmission may be mistimed or misdated. If this occurs, if timely receipt can otherwise be verified, consider the request timely.

Exception: A CDP hearing request may be submitted to an RO. If timely submitted by mail, fax, E-fax or hand-delivery to an RO, consider the request timely.

- (4) In addition to TC 520 transaction codes, Appeals must also ensure the tax periods that are the subject of the CDP hearing contain the IDRS CSED suspension indicators. The suspension indicators for timely CDP cases are:
- **P** - for the primary TIN only
 - **S** - for the secondary TIN only
 - **B** - for both TINs on a joint liability
- (5) The following table reflects the timeliness determination, statute verification and documentation requirements that are part of the initial case review:

If you determine...	Then verify...	And document in the CAR...
The CDP request was timely	a. The TC 520 cc 76 or 77 was input to each tax period listed on the CDP notice (CSED is suspended), b. The TC 520 cc 76/77 is dated correctly, c. The IDRS CSED suspension indicator is correct	a. The request for a CDP hearing was made timely, b. The CSED is suspended, and c. The TC 520 cc 76/77 was properly input with the correct date and CSED indicator
The EH request was timely	a. No TC 520 cc 76 or 77 was input to the tax periods listed on the CDP notice (CSED is not suspended), and b. ACDS reflects the proper 'CSED' statute code with the correct CSED date	a. The request for an EH was made timely, and b. The CSED is not suspended c. ACDS reflects the proper CSED date

- (6) The following IDRS statute controls must be corrected **immediately** using the procedure outlined in the table that follows:
- Erroneous TC 520 entry (TC 520 input in case involving an untimely CDP hearing request)
 - Wrong TC 520 date
 - Wrong TC 520 cc (76, 77)
 - Wrong CSED suspension indicator (P, S or B)

Step	Action
1	Prepare ACDS Update Request Form.
2	Complete the form with the information needed to correct the TC 520 and/or CSED suspension indicator.

Step	Action
3	<p>When correcting a TC 520 cc 76/77 date, advise APS to input:</p> <p>a. A TC 522 cc 76/77 to reverse the erroneous TC 520.</p> <p>Note: When reversing a TC 522 on an untimely CDP hearing request, determine also if reversal of the TC 971 AC 275 and input of a TC 971 AC 278 is needed.</p> <p>b. A new TC 520 with the correct date and/or cc along with instructions to delay posting code of one cycle for the correct TC 520 cc 76/77.</p> <p>Caution: The TC 522 cc 76/77 reverses both the erroneous TC 520 and corrected TC 520 if both are input on the same day. Be sure to specifically ask APS to first input the TC 522 and then input the correct TC 520 with a posting delay of one cycle.</p>
4	<p>Submit requests using the <i>Appeals Shared Programs Hub -Home (sharepoint.com)</i>. On this site, scroll down to the APS-Case Update Requests (Appeals Only) section to add your case update request. The site notifies Appeals Technical Employees (ATEs) that requests have been assigned, completed, and/or rejected and allows ATEs to monitor and follow-up on open requests.</p>

8.22.5.4
(03-29-2012)
**CDP Non-Statute
Verification and
Documentation**

- (1) In addition to statute verification and documentation, you must also address the following as part of making a determination in a CDP hearing:

Verification Requirement	IRC Reference
The hearing must be “conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax”	IRC 6320(b)(3) and IRC 6330(b)(3)
That “the requirements of any applicable law or administrative procedure have been met”	IRC 6330(c)(1)

- (2) This section contains information and instructions for determining, verifying and documenting these legal requirements.

8.22.5.4.1
(12-03-2025)
No Prior Involvement

- (1) IRC 6320(b) and IRC 6330(b) require the hearing “be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax,” which includes participation or involvement in any matter (other than a CDP lien or levy hearing) that the taxpayer may have had with respect to the tax and tax period shown on the CDP notice.

- (2) Per Treas. Regs. 301.6320-1(d) and 301.6330-1(d), “Prior involvement exists only when the taxpayer, the tax and the tax period at issue in the CDP hearing also were at issue in the prior non-CDP matter, and the AO or employee actually participated in the prior matter.”

Exception: CDP cases filed in the jurisdiction of the Court of Appeals for the Tenth Circuit have a different definition for no prior involvement. See IRM 8.22.5.4.1.1 for separate requirements for cases filed in Colorado, Kansas, New Mexico, Oklahoma, Utah or Wyoming.

- (3) Prior involvement applies to EH cases. An EH is a “non-CDP matter”. If you previously conducted an EH with a taxpayer for the same tax and period at issue in a CDP hearing, you’ve had prior involvement and may not conduct the CDP hearing without securing a Form 14041, Waiver of Right to request New Settlement/Appeals Officer.
- (4) A taxpayer may waive the “no prior involvement” restriction. For this purpose, use Form 14041 and retain a copy with the administrative file.
- (5) The prior involvement restriction only applies to the Appeals employee conducting the hearing, not the Appeals manager who signs the NOD or Decision Letter.
- (6) An employee who previously served as a mediator involving the same tax and tax period at issue in the CDP or EH is considered to have had prior involvement.
- (7) The following table contains examples to help determine whether you had prior involvement:

Scenario	Prior Involvement?
Taxpayer timely requests a CDP levy hearing for a 2018 income tax liability. You previously conducted a CDP hearing regarding an NFTL filed with respect to the taxpayer’s 2018 liability.	No. Your only prior involvement with the taxpayer’s 2018 income tax liability was in connection with a prior CDP hearing.
Taxpayer timely requests a CDP levy hearing for a 2018 income tax liability. You previously conducted an EH regarding an NFTL filed with respect to 2018.	Yes. Your participation in the EH for the same tax and tax period is non-CDP prior involvement.
Taxpayer timely requests a CDP levy hearing for a 2017 income tax liability. You conducted a CAP hearing regarding an NFTL filed for 2018.	No. You did not have prior involvement because the prior CAP hearing did not involve the 2017 income tax liability at issue in the CDP hearing.
Taxpayer timely requests a CDP levy hearing for a 2018 income tax liability. You previously conducted a CAP hearing regarding an NFTL filed for 2018.	Yes. Your prior involvement with the taxpayer’s 2018 liability was in connection with a non-CDP hearing.
You are assigned a CDP levy hearing for a 2018 income tax liability. You were previously an RO assigned to collect taxpayer’s 2018 liability.	Yes. You previously worked with the taxpayer as an RO trying to collect the same tax and period.

Scenario	Prior Involvement?
You are assigned a CDP levy hearing for a 2018 income tax liability. You previously served as a mediator in a Fast Track Mediation matter involving the taxpayer's 2018 liability.	Yes. You had prior involvement with the tax and period at issue.

- (8) If the hearing officer at the office closest to an individual taxpayer's residence, place of employment or school, or a business taxpayer's principal place of business had prior involvement and there are no other hearing officers located in that office, the taxpayer is not offered an in-person conference at that Appeals location unless the taxpayer waives the "no prior involvement" requirement. The taxpayer is offered an in-person conference at another Appeals office if the taxpayer otherwise qualifies for an in-person hearing.
- (9) As long as there is no prior involvement, a taxpayer does not have a right to a hearing with a hearing officer other than the one assigned. If requested by the taxpayer, a case transfer may be considered per IRM 8.6.1.3, Transfer Procedures.

8.22.5.4.1.1
(03-29-2012)
10th Circuit Exception

- (1) In *Cox v. Commissioner* 514 F.3d 1119 (10th Cir. 2008), the Tenth Circuit Court of Appeals ruled that prior involvement exists where the hearing officer considered the tax and tax periods that are the subject of the current CDP case as part of a prior CDP case involving collection of other tax periods.

Example: A hearing officer conducted a CDP hearing involving taxpayer's income tax for 2018. As part of that hearing, the taxpayer proposed an Installment Agreement (IA). The hearing officer declined the IA due to a delinquent 2019 return. The taxpayer subsequently filed his delinquent return but did not pay the balance due. The taxpayer then receives a CDP levy notice with respect to 2019 and submits a timely request for CDP hearing. The hearing officer is considered by the Tenth Circuit to have had prior involvement with the 2019 tax year because he considered the delinquent 2019 return as part of the previous CDP

- (2) The Office of Chief Counsel disagrees with the *Cox* decision, so in cases where the appeal lies outside of the jurisdiction of the Court of Appeals for the Tenth Circuit, Appeals will not follow this decision. However, under the Golsen rule, Appeals must follow the *Cox* decision in cases that can't be meaningfully distinguished and the appeal lies in the Tenth Circuit.
- (3) The Tenth Circuit exception applies if the taxpayer resides or has a business or principal office in one of the following states:
 - Colorado
 - Kansas
 - New Mexico
 - Oklahoma
 - Utah
 - Wyoming
 - Plus those portions of Yellowstone National Park extending into Montana and Idaho
- (4) Use the taxpayer's residence (individual) or principal place of business (e.g., for a corporation or partnership) at the time of the hearing request to analyze

which prior involvement rule applies. The venue for appeals of a Tax Court decision is based on the taxpayer's location as of the date the petition is filed. If the taxpayer's address changes during the hearing, reassess the matter.

8.22.5.4.1.2
(11-08-2013)
Documenting No Prior Involvement

- (1) ACDS prompts each hearing officer working on a CDP case for the impartiality statement as the first entry after CR-RA, CR-TR or CR-NR. The CAR entry is either NP (no prior involvement) or PI (prior involvement).

8.22.5.4.2
(08-31-2020)
Legal and Administrative (L&A) Procedure Review

- (1) IRC 6320(c) and IRC 6330(c) require Appeals to verify "that the requirements of any applicable law or administrative procedure have been met." This requires a thorough knowledge of tax law, regulations and Collection's administrative procedures in IRM Part 5, *Collecting Process*.
- (2) The L&A review is required in all cases except:
 - Disregarded hearing where the taxpayer is raising only frivolous issues
 - Premature referrals
 - Withdrawals
- (3) Conduct the L&A review even when receiving a transfer and the prior Appeals employee conducted the review. The results of **your** review will appear in your decision/determination letter attachment.
- (4) Conduct the L&A review regardless of whether the taxpayer specifically raises the issues in the table below. The review consists of verifying:

Requirement	Description
Collection's Administrative Procedures	All applicable procedures in IRM Part 5 and the Treasury Regulations relating to the filing of the NFTL or the issuance of the notice of intent to levy were followed.
Valid Assessment	A valid assessment was made for each tax and period on the CDP notice and the liability is correct.
Notice and Demand	Notice of tax due and demand for payment (notice and demand) was issued to the taxpayer's last known address.
Balance Due	There was a balance due when the CDP levy notice was issued or when the NFTL was requested.
Verification of Certain Penalties	Verify written supervisory approval of certain penalties was received. See IRM 8.22.5.4.2.1.7.
CDP Notice Properly Issued	<p>If a taxpayer disputes the timeliness determination, verify a CDP lien or levy notice was properly issued to the taxpayer</p> <ul style="list-style-type: none"> • Notice of Intent to Levy: IRC 6330(a)(1) and IRC 6331(d)(1) (except for jeopardy levies) • NFTL: IRC 6320(a)(1)

- (5) IRC 6330(c)(1) does not require reliance on a particular document for verification. These items can be verified with IDRS command code TXMOD transcripts or Form 4340, Certificate of Assessments and Payments , and the administrative file from Collection, unless an irregularity is identified. An irregularity may require research beyond reviewing transcripts and the administrative file. TXMOD transcripts used to conduct your L&A review must be saved in the administrative file as they are necessary if the taxpayer petitions Tax Court.
- (6) There is no need to specify the dates on which the L&A requirements were met unless the taxpayer identifies an irregularity in one of the requirements.
- (7) You are not required to document the L&A review in the CAR. Documenting it in the decision/determination letter attachment meets the legal requirements. However, it may be advisable to document the results of your review in the CAR to recall them at closing.
- (8) “Last known address” is the address provided by the taxpayer on the most recently filed and properly processed federal tax return unless the IRS is given “clear and concise notification” of a different address.
- (9) “Clear and concise notification” is a written statement signed by the taxpayer and mailed to an appropriate IRS address informing the IRS that the taxpayer wishes the address of record to be changed to a new address. In addition to the new address, this notification must contain:
 - a. The taxpayer’s full name
 - b. The old address
 - c. Taxpayer’s SSN, ITIN or EIN
 - d. Joint return filers should provide both names, SSNs and signatures

Note: Clear and concise written notification must be specific as to a change of address. Thus, a new address in the letterhead of taxpayer correspondence does not by itself serve to change a taxpayer’s address of record.

8.22.5.4.2.1
(08-11-2017)
Valid Assessment

- (1) The subsection below discusses how to verify the validity of different assessments.

8.22.5.4.2.1.1
(08-31-2020)
Statutory Notice of Deficiency (SNOD)

- (1) For assessments that require issuance of a SNOD, the validity of the assessment is confirmed by verifying the SNOD was properly issued. Properly issued means the SNOD was issued:
 - a. By certified or registered mail to the taxpayer’s last known address, and
 - b. Prior to the assessment of the deficiency.
- (2) Appeals may generally rely on IDRS command code TXMOD transcripts showing the SNOD assessment was made to verify that the assessment was properly made. Examine TXMOD transcripts and identify the TC 290 and TC 300 assessments. The TC 494 Notice of Deficiency may confirm the SNOD was issued.
- (3) A consent to assessment is verified by examining TXMOD. Look for a TC 300 with a disposal code of:
 - 03 = agreement reached before issuance of the 30-day letter
 - 04 = agreement reached after issuance of 30-day letter

- 09 = agreement reached after issuance of a SNOD
- (4) Always ask the taxpayer if they received the SNOD and document their response.
 - (5) The taxpayer has alleged an irregularity when they:
 - Deny or can't recall receipt of the SNOD
 - Deny signing an extension of the assessment statute and transcripts show an extension
 - Deny signing a consent to assessment and transcripts show a signed consent
 - (6) If the taxpayer alleges an irregularity, you cannot rely solely on TXMOD. You need to review:
 - A copy of the SNOD, and
 - Postal Service Form 3877, or equivalent IRS CML bearing a USPS date stamp or the initials of a postal employee (see below for CML instructions)
 - (7) If the tax return(s) for the subject tax year(s) are not in the CDP file, request them using IDRS command code ESTAB.
 - a. Request a special search if the file is not received in 21 days
 - b. Promptly return the original returns after photocopying them
 - c. If the returns are too large to copy, flag them for APS to return after closing the case
 - (8) SNODs issued by Automated Underreporter (AUR) after 08/01/2009 are maintained in Control-D and are identified with a TC 922 with an IDRS assignment number that ends in "5601." The *ACS CDP Coordinators* provide Appeals with Control-D copies of the SNODs issued by AUR.
 - (9) If the SNOD can't be located, the CML can establish the SNOD was issued prior to the assessment. To obtain a copy of the CML/SNOD, make a request through the *Support Work Link to Request SNOD/CML* located on the Appeals CDP intranet page.
 - (10) When an irregularity is discovered regarding the SNOD, see the decision table below:

IF...	THEN...
The taxpayer signed a waiver Form 870, Waiver of Restrictions on Assessment & Collection of Deficiency in Tax & Acceptance of Overassessment, or Form 4549, Report of Income Tax Examination Changes	SNOD verification is not necessary unless the taxpayer denies signing the waiver

IF...	THEN...
The IRS did not mail a SNOD to the taxpayer's last known address	The assessment is invalid and must be abated unless the taxpayer received the notice in time to petition Tax Court
No SNOD was issued	The assessment is invalid and must be abated
The liability was incorrectly assessed under the math error procedures	The assessment is invalid and must be abated
The SNOD can't be located	Use CML to establish the SNOD was issued prior to assessment
Neither the SNOD nor the CML can be located and no other proof of mailing can be found	Consult with Area Counsel

8.22.5.4.2.1.2
(12-03-2025)
6020(b) Assessment

- (1) A 6020(b) assessment may be for an individual (IMF) or business (BMF):
 - IMF 6020(b) assessments require the issuance of a SNOD. For IMF 6020(b) assessments, follow IRM 8.22.5.4.2.1.1, Valid Assessment - Statutory Notice of Deficiency (SNOD), above.
 - BMF 6020(b) assessments for employment taxes do not require the issuance of a SNOD. For BMF 6020(b) assessments, follow the guidance below.
- (2) A document signed by an authorized IRS employee is a return under IRC 6020(b) if it contains:
 - The taxpayer's name and SSN, EIN or ITIN,
 - Sufficient information to compute the tax liability, and
 - Purports to be a return

Form 13496, IRC Section 6020(b) Certification, or its automated counterpart, the IRC Section 6020(b) ASFR Certification, meet these requirements.
- (3) Appeals may generally rely on TXMOD transcripts to verify that the assessment was properly made. Substitute for Return (SFR) assessments are identified in TXMOD with a TC 150 showing \$0.00 assessed.
- (4) BMF 6020(b) assessments require the issuance of Letter 1085, 30 Day Letter Proposed 6020(B) Assessment. These letters are not sent by certified mail. If the taxpayer denies receipt of the letter, see IRM 8.22.8.6.3, BMF 6020(b) Assessments, and the process for considering liability.

8.22.5.4.2.1.3
(08-31-2020)
Trust Fund Recovery Penalty (TFRP)

- (1) A TFRP assessment is valid if the IRS:
 - a. Issued Letter 1153, Proposed Trust Fund Recovery Penalty Notification, to the taxpayer's last known address
 - b. Assessed the IRC 6672 penalty more than 60 days after mailing Letter 1153, and

- c. The penalty was assessed within the Assessment Statute Expiration Date (ASED)

(2) **Presumptive Rule.** Form 941 is filed quarterly. Form 943, Employer's Annual Federal Tax Return for Agricultural Employees, Form 944, Employer's ANNUAL Federal Tax Return, and Form 945, Annual Return of Withheld Federal Income Tax, are filed annually on or before April 15. For purposes of the statute of limitations on assessment, IRC 6501(b)(2) provides a "deemed" filing date for taxes imposed by the following chapters of the IRC:

- Chapter 3 — Withholding of Tax on Nonresident Aliens and Foreign Corporations
- Chapter 21 — Federal Insurance Contributions Act
- Chapter 24 — Collection of Income Tax at Source on Wages
- Chapter 4 – Taxes to Enforce Reporting on Certain Foreign Accounts

Any Form 941, Form 943, Form 944 or Form 945 filed for a calendar year before April 15 of the succeeding year is deemed filed on April 15th of the succeeding year and the period of assessment is three years from that date. If the return is filed after April 15th of the succeeding calendar year, the period of assessment is three years from the date the return is filed. See also Treas. Reg. 301.6501(b)–1(b) and IRM 4.23.14.2, Period of Limitation for Assessment.

- (3) Appeals may rely on TXMOD transcripts showing the IRC 6672 penalty assessments were made to verify that these assessments were properly made. TFRP assessments are identified in TXMOD as a TC 240 with a civil penalty code of 618 and an MFT 55. An extension of the ASED, Form 2750, Waiver Extending Statutory Period for Assessment of Trust Fund Recovery Penalty Assessment, or a consent to assessment Form 2751, Proposed Assessment of Trust Fund Recovery Penalty, is verified in TXMOD as well.
- (4) Always ask the taxpayer if they received Letter 1153 and document their response.
- (5) The taxpayer has alleged an irregularity when they:
- Deny or can't recall receipt of Letter 1153
 - Deny signing Form 2750 extending the ASED and transcripts show an extension
 - Deny signing Form 2751 consent to assessment and transcripts show a consent
- (6) When the taxpayer alleges an irregularity, you cannot rely solely on TXMOD transcripts. You also need to review:
- The source document for the alleged irregularity (Letter 1153, Form 2750 or Form 2751) in the TFRP administrative file
 - Postal Service Form 3877 or equivalent IRS CML bearing a USPS date stamp or the initials of a postal employee
- (7) If Letter 1153 is not in the CDP file:

Step	Action
1	Review the corporate ICS history for documentation of personal delivery of Letter 1153 to the taxpayer.
2	If you can't confirm delivery in ICS, generate the "TP disputes TFRP civil penalty" form in Appeals Generator of Letters and Forms (APGolf) to request a copy of the Letter 1153 and proof of mailing from Collection Advisory (see the Collection Advisory Contact List link in the Resources section of the Appeals CDP web page, or Pub 4235, Collection Advisory Offices Contact Information. Ask them to check the Automated Trust Fund Recovery (ATFR) program for documentation of personal delivery.
3	Fax the completed form to the appropriate Collection Advisory group ATFR Control Point Monitoring. A list of the fax numbers based on Area can be found on the <i>Control Point Monitors</i> link available on the Appeals TFRP SharePoint.

- (8) If the Letter 1153 can't be located, the CML can establish Letter 1153 was issued prior to the assessment.

Note: Access the *Support Work Link to Request SNOD/CML* that is located on the Appeals CDP intranet page to obtain a CML copy.

- (9) For an alleged irregularity regarding Form 2750 or Form 2751, request the TFRP administrative file from Collection Advisory.
- (10) See the table below for how to proceed once you verify whether or not the Letter 1153 was properly issued:

IF...	THEN...
The taxpayer signed a Form 2751	Verifying Letter 1153 was properly issued is not necessary unless the taxpayer denies signing the consent.
The IRS did not mail/hand-deliver Letter 1153 more than 60 days prior to assessment (absent jeopardy - see IRC 6672(b)(4))	The assessment is invalid and must be abated.
The IRS did not assess the TFRP before the expiration of the ASER defined by IRC 6501(a)	The assessment is invalid and must be abated.
The Letter 1153 can't be located	Use CML to establish the SNOD was issued prior to assessment

IF...	THEN...
Neither Letter 1153 nor the CML can be located and no other proof of mailing can be found	Consult with Area Counsel

8.22.5.4.2.1.4
(12-03-2025)

**Frivolous
Return/Submission**

- (1) It is a requirement of IRC 6320(c) and 6330(c)(1) for Appeals to obtain verification that requirements of applicable law and procedure have been met, including verification that supervisory approval was obtained. This is true even if the taxpayer does not raise the issue of supervisory approval.
- (2) To confirm the validity of a frivolous return/submission under IRC 6702 or IRC 6682, see the Step Table below:

Managerial Approval	
Step	Action
1	<p>Check IDRS for the notation "EFDS/CV/PN" in the MFT 55.</p> <ul style="list-style-type: none"> If found: Note that 'EFDS/CV/PN' confirms the Electronic Fraud Detection System (EFDS) system determined the penalty and the taxpayer did not respond to the penalty letter. In this situation, managerial approval is not required because an exception exists for penalties automatically calculated by electronic means. If not found: Note that managerial approval of the penalty is required and proceed to Step 2.
2	<p>Request an ESTAB of the MFT 30 TC 150 and the MFT 55 TC 240. Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties, is attached to one of these documents. The appropriate signature blocks must be completed by the originator and immediate supervisor. Beginning April 1, 2017, electronic copies of signed Form 8278 will be retained on the Frivolous Return Program (FRP) Master Database. An electronic copy of Form 8278 may be used to verify approval. If Form 8278 is not located, proceed to Step 3.</p>
3	<p>Check IDRS for an open control for FRP. If yes, request a copy by calling 1-866-883-0235 or 1-801-620-2406. If no, proceed to Step 4.</p>

Managerial Approval	
Step	Action
4	<p>If Form 8278 is missing, take the following steps:</p> <ol style="list-style-type: none"> Obtain a printout of the FRP Master Database for the administrative file Search for an entry showing the Form 8278 was prepared and submitted to the supervisor for approval, followed by an entry showing that the proposed penalty assessment was either denied or made <p>Note: If after April 1, 2017, a made assessment entry will also indicate that the assessment was approved.</p> <ol style="list-style-type: none"> If the indicator shows that the assessment was made, secure the Standard Employee Identifier (SEID) of the employee making the assessment from the database Visit the Discovery Directory and enter the employee's SEID into the search box Contact the employee and ask whether their immediate supervisor approved the assessment of the penalty in writing <ol style="list-style-type: none"> If answered "yes", document the statement and names of the employee and approving supervisor. This statement is sufficient verification of written supervisory approval If answered "no", the assessment is not verified - move to step 5 <p>Note: If an employee remembers that written approval or denial was received but cannot remember the name of the approving supervisor, the employee's statement is also sufficient verification that written approval was given.</p>
5	If you determine that proper approval was not obtained prior to the assessment, the penalty must be abated.

8.22.5.4.2.1.5
(11-08-2013)

Math Error

- (1) A notice of deficiency is not initially required for math error liabilities. A notice of mathematical error is issued notifying the taxpayer that an amount of tax in excess of that shown on the return is due. The notice must identify the alleged error.
- (2) The taxpayer may request abatement of the math error liability within 60 days of the notice of mathematical error and the IRS must abate the liability. If the IRS did not abate a math error liability after the taxpayer's timely request, then the assessment is invalid and must be abated.
- (3) If the taxpayer did not timely request abatement of the math error but can show that the assessment was erroneous, then Appeals may reconsider the information and abate the assessment.

8.22.5.4.2.1.6
(08-11-2017)

Self-Filed Return

- (1) Where assessment of the tax is based on a self-filed return, it is sufficient to rely on the TC 150 on IDRS command code TXMOD to confirm the validity of the assessment.

8.22.5.4.2.1.7
(12-03-2025)

**Supervisory Approval of
Certain Penalties**

- (1) Certain penalties require written supervisory approval under IRC 6751(b)(1). Written supervisory approval must be obtained before the first formal communication to the taxpayer of the initial determination to assert the penalty. *Clay v. Commissioner*, 152 T.C. 223, 249 (2019).

- In the context of an examination, this means that written supervisory approval must be obtained no later than the date on which the Examination Division formally notifies the taxpayer, in writing, that it has completed its work and made an unequivocal decision to assert penalties. *Belair Woods, LLC v. Commissioner*, 154 T.C. (2020).
 - In the context of the TFRP under IRC 6672, written supervisory approval must be obtained before issuing Letter 1153.
- (2) Written supervisory approval includes those approvals made by an acting supervisor. The acting supervisor is the immediate supervisor for purposes of 6751(b) if the acting supervisor had an approved designation to act for the employee's usual immediate supervisor. For verification purposes, it is not required to obtain an approved designation to act as the presumption of official regularity applies. This presumption allows you to presume that the acting supervisor was authorized to act as the employee's immediate supervisor.
- (3) Where these penalties are present, they do **not** need to be properly at issue under IRC 6330(c)(2)(B) to require verification. Written supervisory approval of the assessment of these penalties is not considered a liability challenge, but must be verified as a part of the verification requirements under IRC 6330(c)(1).

Note: If the penalty was the subject of a prior court proceeding that has collateral estoppel or res judicata effect, or the issue of section 6751(b) compliance is precluded by section 6330(c)(4), verification under section 6330(c)(1) is **not** required. To verify, refer to the Court's order from the applicable prior proceeding.

- (4) The chart below indicates penalties for which written supervisory approval must be verified as part of the required L&A review:

IDRS Transaction Code	PRN	IRC	Penalty	IRM
160	N/A	6698, 6699	Delinquency Penalty	IRM 20.1.2
180	N/A	6656	Deposit Penalty	IRM 20.1.4
240	635, 686	6651(f)	Fraudulent Failure to File (Civil)	IRM 20.1.2.3.7.5
240	680, 786, 787, 788, 789, 790, 791, 792	6662	Other Accuracy-Related After 9/30/2015 PRN 680 is used for substantial understatement under IRC 6662 with a secondary position of negligence. Prior to this it was used for all 6662 (c) - (h) penalties. Subsequently these penalties were split between PRN's 786-792.	IRM 20.1.5.2

240	780	6662(b)(6)	Accuracy-Related Penalty on Underpayments - Transactions Lacking Economic Substance	IRM 20.1.5.13
240	681	6662A	Accuracy-Related Penalty on Understatements with respect to Reportable Transactions	IRM 20.1.5.17
240	618	6672	Failure to Collect and Pay Over Tax or Attempt to Evade or Defeat Tax	IRM 20.1.10.8 IRM 5.7
240	565	6676	Erroneous Refund or Claim Penalty	IRM 20.1.5.18
240	616	6682	False Information with Respect to Withholding	IRM 20.1.10.11
240	645	6694(a)	Preparer Penalty - Understatement Due to Unreasonable Positions	IRM 20.1.6.4.6
240	650	6694(b)	Preparer Penalty - Understatement Due to Willful or Reckless Conduct	IRM 20.1.6.4.13
240	624, 714	6695(a)	Failure to Furnish Copy or Return to Taxpayer	IRM 20.1.6.5.1
240	624, 715	6695(b)	Failure to Sign Return/Claim for Refund	IRM 20.1.6.5.2
240	624, 716	6695(c)	Failure to Furnish Identifying Number	IRM 20.1.6.5.3
240	624, 717	6695(d)	Failure to Retain Copy or List	IRM 20.1.6.5.4
240	624, 718	6695(e)	Failure of Preparer Employer to File Information Returns	IRM 20.1.6.5.5
240	626	6695(f)	Negotiation of Taxpayer's Refund Check	IRM 20.1.6.5.6
240	627	6695(g)	Failure to be Diligent in Determining Eligibility for Certain Tax Benefits	IRM 20.1.6.5.7
240	581	6695A	Substantial and Gross Valuation Misstatements Attributable to Incorrect Appraisals	IRM 20.1.12.3

240	628	6700	Promoting Abusive Tax Shelters, etc.	IRM 20.1.6.13 IRM 4.32.2.12.5
240	631	6701	Penalties for Aiding and Abetting Tax Understatement	IRM 20.1.6.14 IRM 4.32.2.12.6
240	634	6707	Failure to Furnish Information Regarding Reportable Transactions	IRM 20.1.6.16 IRM 4.32.2.12.7
240	634, 648	6707A	Failure to Include Reportable Transaction Information with Return or Statement	IRM 20.1.6.17 IRM 4.32.4
240	636	6708	Failure to Maintain Lists of Advisees with Respect to Reportable Transactions	IRM 20.1.6.18 IRM 4.32.2.12.8
240	633	6713	Unauthorized Preparer Disclosure or Use of Information	IRM 20.1.6.7
240	637, 638	6721	Failure to File Correct Information Returns	IRM 20.1.7.8
240	637, 638, 642	6722	Failure to Furnish Correct Payee Statement	IRM 20.1.7.9
240	621	6723	Failure to Comply with Other Information Reporting Requirements	IRM 20.1.7.10
320	N/A	6663	Civil Fraud	IRM 20.1.5.16

Note: See also Document 6209, IRS Processing Codes and Information, and the IRM resources shown above for more information pertaining to these and other penalties.

(5) Take the following steps to review for the applicable penalties:

1. Using IDRS, review modules for TCs indicated above or others as found in Document 6209 and the IRM.
2. If a penalty TC is **not** present, your verification for supervisory approval of the penalties is complete. No such penalties were assessed.
3. If IDRS **does** show an applicable TC is present, the Examination file may be requested for any cases that include periods showing an applicable penalty. Use one of the following methods to request the Examination file:
 - Prepare a Form 2275, Records Request, Charge and Recharge, to request the Examination file via a special search request. If more than one Examination file is needed, a separate Form 2275 should be completed for each request. Instructions for completing the Form 2275 are located in IRM 3.5.61, Files Management and Services, and Figure 3.5.61-2. **or**

- Those having access to Integrated Automation Technologies (IAT) Tools may use that process to complete Form 2275
- 4. You may request a Special Search Request from Shared Team of Administrative and Redaction Support (STARS) by going to the *Appeals Shared Programs Hub* and clicking Add New STARS Requests > Appeals Technical Employee from the Request dropdown > Special Search Request for Service Center Files from the Appeals Technical Employee dropdown and completing the form.
- 5. Once received, review the file for written supervisory approval of any applicable penalties. If present, digitally scan the written supervisory approval and attach it electronically to the ACDS record. Return the paper document to the closed Examination file.
- 6. While section 6751(b)(1) requires personal supervisory approval in writing, not any particular form of signature, or even any signature at all is required. For example, a note or e-mail written by an immediate supervisor could provide the appropriate approval. If you can't locate the supervisor's written approval on the common approval documents, search other documents within the administrative file.
- 7. Some common approval documents include the following (not all inclusive):
 - a) Global Forms:**
 - **Lead Sheet 300** - Civil Penalty Approval Form: Required to be used in LB&I cases and SB/SE Field and Office examinations (IRM 20.1.5.18.6, Non-deficiency Related Case File for Disallowed Claims); may also be used in TS and SB/SE Campus examination cases.
 - **Form 8278**
 - b) Case-Specific Forms:**
 - **Form 4700**, Examination Workpapers: may be used in TS and SB/SE Campus examination cases (IRM 20.1.5.18.6)
 - **Form 5809**, Preparer Penalty Case Control Card (IRM 4.23.17.4.2, Prepare Form 5809 to Establish on ERCS – Not AIMS)
 - **Form 5345-D**, Examination Request - ERCS (Examination Returns Control System) Users - e.g., IRC 6695A appraiser penalty cases (IRM 20.1.12.6, Power of Attorney (POA)) or IRC 6676 erroneous refund claim penalty (IRM 20.1.5.18.8, Group Processing and Penalty Assessment Instructions for IRC 6676 Penalties Not Subject to Deficiency Procedures)
 - **Form 5464**, Case Chronology Record (CCR)
 - TE/GE discrepancy adjustment examinations of exempt organizations (IRM 4.70.15, TE/GE Exam Discrepancy Adjustments): the written managerial approval will be an entry by the manager in the CCR.
 - TE/GE examination of an Employee Retirement Income Security Act (ERISA) qualified employee plan (IRM 4.71.21, Examination Procedures for Plans in U.S. Territories): written supervisory approval is required to be in a signed comment in the CCR, in the form of an e-mail or memo to file.
 - **Administrative Lead Sheet E500**, Penalty Check Sheet (IRM 4.24.9.2(5), Common Penalty Features): excise tax penalties.
 - c) Other**
 - **Correspondence Examination Automation Report (CEAS) cases** (IRM 20.1.5.2.3, Supervisory Approval of Penalties - IRC 6751 Procedural Requirements): the supervisor must input a report generation software (RGS)/CEAS non-action notation in the electronic case file to indicate concurrence with the penalty assertion. The notation must in-

clude the penalty name and a statement of approval of the assertion or non-assertion of the penalty. See IRM 4.19.13.7.1, Supervisory Approval of Penalties.

- **AUR System** : Penalties appearing in a SNOD as a result of programs, such as the AUR, will fall within the exception for penalties automatically calculated through electronic means if the taxpayer does not submit any response to the notice proposing a penalty. However, if the taxpayer responds to challenge a proposed penalty or the amount of tax to which a proposed penalty is attributable, then the immediate supervisor of the IRS employee considering the response must provide written approval prior to the issuance of any SNOD that includes the penalty. A penalty is no longer automated once an IRS employee makes an independent determination to pursue a penalty or to pursue adjustments to tax to which a penalty is attributable.

To confirm this supervisory approval was subsequently received, contact a Campus AUR coordinator (located via Servicewide Electronic Research Program (SERP)), by secure e-mail. Select the correct AUR coordinator using the first two digits of the DLN of the TC 922 noted on the taxpayer's account. In your e-mail, include the taxpayer's name, type of tax and tax periods. Place the following language in the subject line of the e-mail: **AUR 6751(b) Verification Request**. If found, the AUR coordinator will include a screen shot of the verification statement in their reply. The reply should be received within 15 calendar days.

- **TFRP - Form 4183**, Recommendation re: Trust Fund Recovery Penalty Assessment. A copy of the Form 4183 with the physical signature of the supervisor is preferred but **not** required. You may locate the signed Form 4183 in a paper TFRP file related to the assessment or in the other following ways:

- Locate the Form 4183 approval electronically within the ATFR system. A systemic entry should also have been made in the ICS history that records the supervisory approval from ATFR.

- If the TFRP case file was an electronic one, the Form 4183 should be included in the file as a scanned PDF.

Note: The TFRP also applies to certain collected excise taxes (Form 720, Quarterly Federal Excise Tax Return). However, a TFRP calculated from a Form 720 liability requires a manual assessment and, as such, you must locate the Form 4183 signed by the supervisor. See IRM 5.7, Trust Fund Compliance.

8. A Chief Counsel (CC) supervisor may have also provided written supervisory approval. This information may be in the administrative file or in litigation documents. Notice CC-2018-006 provides that the following may constitute supervisory approval:

- a) If CC reviewed the SNOD and the CC attorney recommended a new penalty, then the CC attorney should obtain written approval from their immediate supervisor to satisfy the requirement of IRC 6751(b)(1). Thus, Appeals may need to contact Area Counsel for this information.

- b) CC may have also raised a new penalty in an answer or amended answer. If the attorney's immediate supervisor signed the answer or amended answer, it should also identify the supervisor's signature as such. See exhibit A of Notice CC-2018-006 for an example.

9. After concluding that section 6751(b)(1) applies and that no exception applies, and after exhausting your research options and written supervisory approval is **not** present, have the penalty abated.
10. Return the Examination file to the appropriate location (see step 4 above) as soon as your review is concluded. Remember to electronically attach a copy of any written supervisory approval to ACDS.
11. If your search efforts do **not** locate the Examination file or other resource through which to verify the written supervisory approval, the penalty **must** be abated.

Exception: Do not abate if the taxpayer agreed to the assessment of the penalty in a IRC 7121(b) closing agreement (e.g., Forms 906 or 870-LT, Agreement for Partnership Items & Partnership Level Determinations as to Penalties, Additions to Tax, and Additional Amounts and Agreement for Affected Items). See IRM 8.13.1, Processing Closing Agreements in Appeals. Also, abatement is not required if written supervisory approval is not legally required (i.e., for additions to tax under IRC 6651 (including 6651(f), 6654 and 6655), and for penalties that are automatically calculated through electronic means).

- (6) For specific instructions about verification of written supervisory approval of section 6702 frivolous return penalties, see IRM 8.22.5.4.2.1.4, Frivolous Return/Submission.

8.22.5.4.2.2 (12-03-2025) **Notice and Demand Properly Issued**

- (1) Verify that the IRS issued notice of assessment of tax and demand for payment (notice and demand). IRC 6303 requires the issuance of notice and demand within 60 days of an assessment. You may rely on a TXMOD transcript to verify notice and demand was sent to the taxpayer in accordance with IRC 6303.

Note: For the notice and demand requirement for 965(h) related assessments, there will either be a notation in Audit Management System (AMS) that the Letter 3064C, IDRS Special Letter, was issued, **or** the letter will have been scanned into the Correspondence Imaging Inventory (CII). The Letter 3064C meets the 6303 requirement for such assessments.

- (2) A taxpayer may claim the IRS failed to timely issue notice and demand. Failure to issue notice and demand within 60 days doesn't invalidate the notice or the assessment. See Treas. Reg. 301.6303-1(a). If the IRC 6303 notice was not issued or issued late, any other collection notice constitutes notice and demand for the purposes of the statute.
- (3) Treas. Reg. 301.6331-2(a)(1) permits issuance of the Notice of Intent to Levy at the same time as the notice and demand. A Notice of Intent to Levy issued before the expiration of the 10-day notice and demand period is valid.

8.22.5.4.2.3 (03-29-2012) **Balance Due**

- (1) Balance due verification requires confirming there was a balance due at the time the Notice of Intent to Levy was issued or the NFTL filed. You may rely on TXMOD transcripts and the administrative file to verify there was a balance due.
- (2) If there was no balance due at the time the Notice of Intent to Levy was issued, issue a determination that collection may not proceed. See IRM 8.22.5.4.2.4.2 below for corrective actions on improperly issued CDP notices.

- (3) If there was no balance due at the time the NFTL was filed:
- Prepare Form 13794, Request for Release or Partial Release of Notice of Federal Tax Lien, and identify the NFTL as erroneously filed. Submit it to your ATM to process to Collection Advisory. See the Collection Advisory Contact List link in the Resources section of the Appeals CDP web page, or Pub 4235
 - Issue a determination or decision stating that the NFTL was erroneously filed and the lien subsequently released.

Note: Form 13794 is used to release the lien rather than the CDP decision because IRC 6326 requires the IRS to expeditiously (and, to the extent practicable, within 14 days) issue a certificate of release of a lien identified as erroneous.

8.22.5.4.2.4
(03-29-2012)
**CDP Notice Properly
Issued**

- You may rely on TXMOD transcripts and the administrative file from Collection to verify a CDP notice was properly issued. That a taxpayer is in Appeals for a timely CDP hearing confirms that any errors in issuance were overcome and not harmful to the taxpayer's request for a hearing.
- If an EH taxpayer disputes the timeliness determination on the grounds that notice was not properly issued, confirm that the CDP notice was:
 - Delivered personally to the taxpayer, or
 - Left at the taxpayer's dwelling or usual place of business, or
 - Sent by certified or registered mail to the taxpayer's last known address
- If you determine a CDP notice was not properly issued and resulted in an EH, the notice is invalid and the following steps are needed:

Step	Action
1	Close the CDP as a premature referral with resolution reason code "IV" on Form 5402
2	Inform Collection via Form 5402 that: <ol style="list-style-type: none"> The CDP notice is invalid A substitute notice must be issued, giving the taxpayer a new opportunity to request a hearing
3	Inform the taxpayer that: <ol style="list-style-type: none"> You determined the CDP notice is invalid because it was not issued properly The request for a CDP hearing request is being returned to Collection so that a proper CDP notice can be issued, and The taxpayer should request a CDP hearing when the proper notice is received

Note: If the EH taxpayer was in bankruptcy when the CDP notice was issued, inform Collection that a substitute notice must be issued after the automatic stay is no longer in effect

- (4) Do not withdraw the NFTL on an improperly issued CDP lien notice as that does not affect the validity of the NFTL.

8.22.5.4.2.4.1
(03-29-2012)
Rescinding a CDP Notice

- (1) There is no circumstance in which Appeals rescinds a CDP notice. The tables below describe the corrective action necessary when Appeals discovers an improperly issued CDP notice or a notice issued in error.

8.22.5.4.2.4.2
(12-03-2025)
Corrective Actions on Improperly Issued CDP Notices and Notices Issued in Error

- (1) The table below describes errors that may be found during the **CDP lien notice** verification and the corrective action:

IF...	Corrective Action	Citation
The NFTL was filed during the automatic stay under the Bankruptcy Code	Suspend the hearing while the bankruptcy proceeding is pending and refer the taxpayer to the appropriate Insolvency group regarding the NFTL, which is void if filed in violation of the automatic stay. See IRM 5.12.3.9.1, Administrative Appeals Under IRC 6326. The CDP lien notice is nevertheless effective. During the pendency of the bankruptcy's proceeding, suspend the CDP hearing as actions taken during the hearing may risk violating the automatic stay. Upon resumption of the hearing, the taxpayer would still be entitled to a hearing to dispute the future filing of an NFTL and resolve collection of the unpaid tax.	<ul style="list-style-type: none"> Treas. Reg. 301.6326-1 Bankruptcy Code 362(a)
The liability that gave rise to the lien was assessed in violation of the deficiency procedures in IRC 6213	Do not sustain the lien as all legal requirements were not met	Treas. Reg. 301.6326-1
The liability that gave rise to lien was satisfied prior to the filing of the NFTL	Do not sustain the lien as all legal requirements were not met	Treas. Reg. 301.6326-1
The collection statute for the liability that gave rise to the lien expired prior to the filing of the NFTL	Do not sustain the lien as all legal requirements were not met	Treas. Reg. 301.6326-1
The taxpayer served in or entered a combat zone during the period for filing a request for a CDP/EH	The hearing can proceed unless the taxpayer or his legal representative request it to be postponed per IRC 7508. See IRM 8.22.6.12, Combat Zone (CZ) Indicators.	<ul style="list-style-type: none"> IRC 7508 Rev. Proc. 2018-58

IF...	Corrective Action	Citation
The CDP notice was not sent to the taxpayer's last known address AND the taxpayer's request was not timely	Close as a Premature Referral and direct Collection to issue a substitute notice per Treas. Reg. 301.6320-1 Q&A-A12. Do not release the lien.	Treas. Reg. 301.6320-1 Q&A-A12
If a CDP notice was not sent individually to each joint filer and the individual to whom Collection failed to properly provide notice did not otherwise receive the notice in sufficient time to timely request a CDP hearing	<ul style="list-style-type: none"> Return the case to Collection as a premature referral for that individual who did not properly receive the CDP notice Instruct Collection to issue a substitute CDP notice to that individual Proceed with the CDP hearing for the individual who did receive proper CDP notice 	<ul style="list-style-type: none"> Treas. Reg. 301.6320-1 Q&A-A12 Field - IRM 5.12.6.3.5, The CDP Notice (L3172) ACS - IRM 5.19.8.4.1, Notice of Collection Due Process (CDP) Appeal Rights
The taxpayer waived their right to a CDP notice and hearing but a CDP notice was issued anyway	Close as a Premature Referral per IRM 8.22.5.2.4	<ul style="list-style-type: none"> Form 906

Note: See Pub 4235 for a listing with contact information for local Collection Advisory Units.

(2) The table below describes errors that may be found during the **CDP levy notice** verification and the corrective action:

IF...	Corrective Action	Citation
The Notice of Intent to Levy was issued during the automatic stay under the Bankruptcy Code	Close as a Premature Referral and direct Collection to issue a substitute notice per Treas. Reg. 301.6330-1(a)(3) Q&A-A10 after the automatic stay is no longer in effect. Direct Collection to send the taxpayer a letter informing that the notice was invalid and another notice will be sent.	<ul style="list-style-type: none"> Bankruptcy Code 362(a) Treas. Reg. 301.6330-1 (a)(3) Q&A-A10 IRM 5.11.1.3.3.8, Invalid Collection Due Process Notice and Rescinding a Valid Collection Due Process Notice
The liability that gave rise to the Notice of Intent to Levy was assessed in violation of the deficiency procedures in IRC 6213	Collection may not proceed because the assessment is invalid. Do not sustain levy as all legal requirements were not met. State in the determination or decision the assessment must be abated.	IRM 8.22.5.4.2.1.1
The taxpayer served in or entered a combat zone during the period for filing a request for a hearing	The hearing can proceed unless the taxpayer or his legal representative request it to be postponed per IRC 7508. See IRM 8.22.6.12, <i>Combat Zone (CZ) Indicators</i> .	<ul style="list-style-type: none"> IRC 7508 Rev. Proc. 2018-58

IF...	Corrective Action	Citation
The taxpayer had a pending IA proposal or an approved IA in effect	Make a determination on the IA if still pending. If the taxpayer has an approved IA in effect, make a determination that levy is prohibited.	<ul style="list-style-type: none"> • IRC 6331(k) • IRM 5.14.1.5, Levy Restrictions and Installment Agreements
If the taxpayer had a pending OIC	Make a determination on the OIC if still pending	<ul style="list-style-type: none"> • IRC 6331(k) • IRM 5.8.1.16
If refund litigation was pending for certain types of tax or penalties	Levy action may be prohibited. Research the penalty and applicable collection procedures. If levy is prohibited, close as a Premature Referral.	<ul style="list-style-type: none"> • IRM 5.11.1.4.9, Refund Litigation • IRM 5.7.7.5.2, Withholding Collection - IRC 6672(c) • IRM 5.20.8.8, Appealing IRC 6700 and IRC 6701 Penalty Assessments
If the taxpayer is the requesting spouse in a pending IS claim	Make a determination on the IS claim	IRC 6015(e)(1)(B)
The CDP notice was not sent to the taxpayer's last known address AND the taxpayer's request was not timely	Close as a Premature Referral and direct Collection to issue a substitute notice	Treas. Reg. 301.6320-1 Q&A-A12
If a CDP notice was not sent individually to each joint filer and the individual to whom Collection failed to properly provide notice did not otherwise receive the notice in sufficient time to timely request a CDP hearing	<ul style="list-style-type: none"> • Return the case to Collection as a premature referral for that individual who did not properly receive the CDP notice • Instruct Collection to issue a substitute CDP notice to that individual • Proceed with the CDP hearing for the individual who did receive proper CDP notice 	<ul style="list-style-type: none"> • Treas. Reg. 301.6330-1 Q&A-A10 • Field - IRM 5.11.1.3.3.4, Issuing Notice of Intent to Levy/Notice of a Right to a Hearing for Joint IMF Bal Due Account • ACS - IRM 5.19.8.4.1, Notice of Collection Due Process (CDP) Appeal Rights
The taxpayer waived their right to a CDP notice and hearing but a CDP notice was issued anyway	Close as a Premature Referral per IRM 8.22.5.2.4	<ul style="list-style-type: none"> • IRM 5.11.1.3.3.10, Waiver of Notice of Intent to Levy/Notice of a Right to a Hearing • Form 13207, Waiver of Right to Receive a Collection Due Process Hearing Under IRC 6330 • Form 906

- (3) If levy action is prohibited, issuing a Notice of Intent to Levy may or may not be prohibited.

Example: IRC 6331(k) prohibits levy while an IA proposal is pending plus an additional 30 days after such is rejected. However, the Notice of Intent to Levy may be issued at the same time that the IRS issues the letter formally rejecting the IA proposal. See IRM 5.14.9.2, Proposal to Reject Installment Agreement(IA) to Independent Administrative Review.

8.22.5.5

(08-11-2017)

Issues Excluded from CDP

- (1) This section addresses issues excluded from CDP such as:
- a. Issues specifically excluded by IRC 6330(c)(2)(B) or IRC 6330(c)(4)
 - b. Child Support Obligations
 - c. Frivolous issues or issues that reflect a desire to delay or impede the administration of federal tax laws
 - d. The merits of a refund claim for a non-CDP tax liability
- (2) Refer to Notice 2016-007 for TEFRA issues excluded from CDP.

8.22.5.5.1

(03-29-2012)

Issues Excluded under IRC 6330(c)(2)(B) and IRC 6330(c)(4)(A)

- (1) IRC 6330(c) provides two instances in which Appeals is precluded from considering an issue under CDP:
- a. **IRC 6330(c)(2)(B)** - Liability is precluded if the taxpayer received a statutory notice of deficiency or otherwise had an opportunity to dispute the tax liability
 - b. **IRC 6330(c)(4)(A)** - An issue was raised and considered at a previous hearing under IRC 6320 or in any other previous administrative or judicial proceeding **and** the person seeking to raise the issue participated meaningfully in the hearing or proceeding

Note: An administrative or judicial determination under IRC 7429 Jeopardy/Termination Assessment or Jeopardy Levy Review, does not preclude a taxpayer from challenging the existence or amount of the underlying tax liability in a CDP hearing. The IRC 7429 review does not determine the underlying tax liability but involves whether the jeopardy levy was reasonable and whether the method of calculating the assessment amount was done improperly.

- (2) The phrase “previous administrative hearing” is limited to an Appeals hearing. The Appeals CAR from a previous hearing shows what issues the taxpayer presented as well as Appeals decision. Similarly, if a court entered a decision on the same issue in a judicial proceeding to which the taxpayer was a party, then the taxpayer is precluded from having the issue considered in the CDP hearing. If there is a question regarding whether an issue was previously “raised and considered” or whether the taxpayer “participated meaningfully,” give the taxpayer the benefit of the doubt.

Example: Taxpayer has a CDP lien hearing regarding a 2018 tax liability. The taxpayer had a previous CAP hearing where she proposed an IA which Appeals rejected. The taxpayer’s financial situation has not changed since the CAP hearing. The taxpayer is precluded from presenting the same IA proposal in her CDP hearing.

Example: Taxpayer has a CDP levy hearing regarding a 2018 tax liability. The taxpayer had a previous CDP lien hearing for the same tax period during which he submitted an OIC that was not accepted. Since the previous CDP lien hearing, the taxpayer's financial circumstances declined. The taxpayer would **not** be precluded from submitting the same OIC proposal in the CDP levy hearing. This would not be the same issue raised previously because of the changed financial circumstances.

Example: Taxpayer proposed an IA to Collection which was rejected. The taxpayer could have appealed the rejection to Appeals through CAP, but did not. Taxpayer's financial condition has not changed. The taxpayer is not precluded from raising the same IA proposal in a CDP hearing.

- (3) See IRM 8.22.8, Liability Issues and Relief from Liability, for a discussion of liability issues precluded under IRC 6330(c)(2)(B).

8.22.5.5.2
(09-30-2014)
**Child Support
Obligations (CSO)**

- (1) Child Support Obligations (CSO) cases have no CDP hearing rights. IRC 6305 states federal courts have no jurisdiction to restrain or review the assessment and collection of CSO cases. It also states neither the assessment nor the collection of CSOs are subject to review by the Secretary in any proceeding.
- (2) Letter 3524, Final Notice - Notice of Intent to Levy; Respond Immediately, (delinquent child support balance due) is issued specifically for CSOs. The notice of assessment of tax and demand for payment and Letter 3524 are all that is required for the IRS to initiate enforced collection on CSO cases.
- (3) If Collection forwards a CDP/EH case to Appeals solely on a CSO, advise the taxpayer to contact the CSO agency to resolve the matter. Close the CDP as a premature referral per IRM 8.22.5.2.5.

8.22.5.5.3
(11-08-2013)
Frivolous Issues

- (1) Appeals may disregard any portion of a CDP or EH request if it:
 - a. Is based on a frivolous position, which the IRS has publicly identified as such, **or**
 - b. Reflects a desire to delay or impede the administration of the federal tax laws
- (2) If the **entire** CDP request is frivolous or reflects a desire to delay, the taxpayer is not entitled to a CDP/EH.
- (3) **Frivolous position:** A hearing request containing a position identified as frivolous in Notice 2010-33 or any successor notices or revenue rulings.

Example: The taxpayer's CDP request states he is morally opposed to war and refuses to pay the portion of his taxes equal to the percentage of the federal budget being spent on any war effort. Notice 2010-33 identifies a taxpayer's disagreement with the government's use of tax revenues as a "frivolous position." Because the taxpayer's position is identified as frivolous in Notice 2010-33, it may be disregarded.

- (4) **Desire to delay or impede the administration of federal tax laws:** A hearing request containing a statement reflecting a desire to delay or impede the administration of federal tax laws that reflects one or more of the following:

- a. A reason that is not a “specified frivolous position” but is a frivolous reason reflecting a desire to delay or impede federal tax administration
- b. A reason that is not a “specified frivolous position” but is based on moral, religious, political, constitutional, conscientious, or similar objections to the imposition or payment of federal taxes

Note: With the exception of a legitimate, unsettled constitutional question, such objections reflect a desire to delay or impede the administration of federal tax laws.

Example: The taxpayer’s request states he is not required to pay federal income taxes because the Oklahoma Constitution exempts him from having to pay federal taxes. Even though this position is not a “specified frivolous position” listed in Notice 2010-33, it is still frivolous as it shows a desire to delay or impede federal tax administration.

Example: The taxpayer’s request states the interest she earned on unregistered, publicly offered long-term bonds issued by a state government is exempt from federal income tax by the 10th Amendment to the Constitution. The Supreme Court has held that it is not unconstitutional for Congress to tax such interest (see *South Carolina v. Baker*, 485 U.S. 505, 108 S. Ct. 1355, 99 L. Ed. 2d 592 (1988)). Even though this is not a “specified frivolous position” listed in Notice 2010-33, it is well-settled law that such interest is taxable. This position demonstrates the taxpayer’s desire to impede the administration of taxes. Ensure the taxpayer is aware of the Supreme Court decision before disregarding the position or hearing request.

Example: The taxpayer’s request states he wants his federal taxes waived because he’s entitled to his own personal bailout. The taxpayer objects to government bailouts of banks and believes he’s entitled to equal treatment. Even though this is not a “specified frivolous position” listed in Notice 2010-33, it is frivolous and shows a desire to delay or impede federal tax administration.

- (5) **Hybrid:** A hearing request where the taxpayer raises at least one relevant issue in addition to frivolous, delaying or impeding issues. Appeals must proceed with a CDP/EH on the relevant issue(s) while disregarding the frivolous/desire-to-delay issues.
- (6) See the table below to determine how to proceed with a frivolous or desire to delay CDP request:

If the taxpayer’s CDP request includes...	Then...
Only frivolous or desire to delay issues	See IRM 8.22.5.5.3.1

If the taxpayer's CDP request includes...	Then...
Frivolous or desire to delay issues AND at least one relevant issue	See IRM 8.22.5.5.3.2

8.22.5.5.3.1
(08-11-2017)
**Processing Frivolous,
Desire to Delay or
Impede Requests**

- (1) Input ACDS Feature Code 'FV' to ACDS.
- (2) Letter 4380, Appeals Received Your Request for a Collection Due Process and/or Equivalent Hearing, is used to allow the taxpayer 30 days to:
 - a. *Amend* the request to state a relevant issue and withdraw the frivolous issues or issue reflecting a desire to delay or impede federal tax administration in cases where no relevant issue has been raised, or
 - b. *Withdraw* the frivolous/desire-to-delay hearing request.

Note: Due to the seriousness of disregarding hearing requests, assign such cases to employees trained to recognize such requests.
- (3) Before sending Letter 4380, verify that the taxpayer did not raise a relevant issue in a non-specific manner. Examples of non-specific, relevant issues include:
 - "I would like to propose a collection alternative"
 - "I believe the collection action is not appropriate or would create a hardship"
 - "I believe the assessment is not valid"

Note: Checking a box (excluding the "other" box) on Form 12153 is sufficient to raise an issue, and requires a hearing even if the taxpayer does not write anything in the space provided or separately in a letter.

If...	Then...
The taxpayer has raised a relevant issue in a non-specific manner, along with frivolous, delaying or impeding issues	DO NOT issue Letter 4380. Follow the instructions in IRM 8.22.5.5.3.2 on hybrid requests
You completed a thorough evaluation of the taxpayer's submissions and verified that no relevant issues were raised	Check Notice 2010-33, effective for frivolous submissions after April 7, 2010, and determine whether all the taxpayer's issues have been identified as published frivolous issues
All issues raised are published frivolous issues	Issue Letter 4380 within 30 days of the date of the assignment of the case

- (4) If the taxpayer has raised no relevant issues, prepare a separate Letter 4380 for each taxpayer if the hearing request is signed by both joint taxpayers. This is required even if the taxpayers are living at the same address.
- (5) The following table contains instructions and next steps after the Letter 4380 is issued:

If...	Then...
The taxpayer responds to Letter 4380 with a relevant issue and withdraws the frivolous/delaying/impeding issue	Issue Letter 4837, Substantive Contact Uniform Acknowledgment, within 15 calendar days of receiving the taxpayer's response. Eligibility for an in-person conference is subject to procedures in IRM 8.22.5.6.1 through IRM 8.22.5.6.1.1.
The taxpayer responds to Letter 4380 with a relevant issue and does not withdraw the frivolous issue	Issue Letter 3846, Appeals Received Your Request for a Collection Due Process Hearing, within 15 calendar days of receiving the taxpayer's response. The taxpayer is not eligible for an in-person conference as per IRM 8.22.5.6.1
The taxpayer either fails to respond to the Letter 4380 within 30 days, or responds solely with the same or additional frivolous/desire to delay or impede issues	Proceed to IRM 8.22.9.5.2, Letter 4381 Disregarded Hearing Request

- (6) Never disregard a CDP hearing request after offering the taxpayer the opportunity for a conference, even if the taxpayer is a no show/no response.

8.22.5.5.3.2
(11-08-2013)
**Processing Hybrid
Requests**

- (1) Input ACDS Feature Code 'FV' to ACDS.
- (2) Letter 3846 is issued:
- Within 30 days of receipt of a CDP hearing request identified as a hybrid request case, or
 - Within 15 days of receipt of the taxpayer's response to the previously issued Letter 4380 raising a relevant issue for the first time
- (3) If the taxpayer proposed an alternative to collection, use Letter 3846 to request required financial information and address any unresolved compliance issues. Letter 3846 serves two purposes:
- Schedules a telephone conference with the taxpayer, and
 - Offers the taxpayer the opportunity to withdraw the "specified frivolous position" or issues reflecting a desire to delay or impede collection of the tax.

- (4) If the taxpayer asks for, but does not qualify for, an in-person conference because the frivolous, delaying or impeding issues were not withdrawn, document at least one of frivolous, delaying or impeding issue in the CAR so that the Tax Court can see why an in-person conference was not given.
- (5) If the taxpayer does not discuss relevant issues and pursues frivolous, desire to delay, impede arguments during the conference, warn that the conference will be discontinued. If the taxpayer continues to espouse only frivolous, or desire to delay or impede arguments, discontinue the conference.
- (6) Document any discussion with the taxpayer about withdrawal of the frivolous or desire-to-delay position.

8.22.5.5.4
(09-30-2014)
The Merits of a Non-CDP Tax Liability

- (1) Taxpayers may not raise a non-CDP tax period liability by characterizing it as a “relevant issue” under IRC 6330(c)(2)(A). Appeals will not consider the **substantive merits** of a refund claim for a non-CDP tax period to determine whether there is an overpayment that could be applied to the CDP liability.

8.22.5.6
(03-29-2012)
Pre-Conference Considerations

- (1) This section contains CDP-specific guidance on preparing for and conducting conferences, supplementing IRM 8.6.1.5, Conference Techniques Used by Appeals Technical Employees (ATEs).
- (2) Appeals must follow the terms of the Service Level Agreement (SLA) between TAS and Appeals for all TAS Criteria Code 1-4, signified by ACDS feature code 'T1,' and TAS Criteria Code 5-7 cases, signified by ACDS feature code 'T5.' See IRM 25.30.2, Service Level Agreement between the IRS Independent Office of Appeals and the Taxpayer Advocate Service, for the SLA.

8.22.5.6.1
(08-31-2020)
Types of Appeals Conferences

- (1) Appeals conference practices are found in IRM 8.6.1.4, Communications with the Taxpayer and/or Representative, and IRM 8.6.1.5.1, Conference Practice.
- (2) The SCL offers taxpayers the opportunity for an in-person conference. Individual taxpayers who request **and** qualify for an in-person conference will be accommodated following procedures in, IRM 8.6.1.5.1, Conference Practice, or IRM 8.6.1.5.5, Video Conferences.
- (3) If the taxpayer is entitled to a CDP hearing but neglects to participate, a review of the documents in the case file constitutes the CDP hearing.
- (4) An in-person conference will not be offered in the following circumstances:
 - a. Taxpayers identified as potentially dangerous, without Criminal Investigation or Treasury Inspector General Tax Administration protection at the meeting. See IRM 25.4, Employee Protection, for additional information about Potentially Dangerous Taxpayer and Caution Upon Contact Programs.
 - b. Taxpayers who have not retracted a frivolous, delaying or impeding argument that was included in their hearing request.
 - c. Taxpayers who are not eligible for the collection alternative they seek, based on IRS policy.

8.22.5.6.1.1
(12-03-2025)

**In-Person Conference
When Ineligible for
Collection Alternatives**

- (1) If a taxpayer meets the criteria for an in-person conference, and the sole purpose of the conference is to discuss a collection alternative, Appeals may require financial information and/or compliance with filing requirements or deposits of tax as a condition to granting the in-person conference **if** the collection alternative requires it.
- (2) Treas. Reg. 301.6330-1(e) states, **Taxpayers will be expected to provide all relevant information requested by Appeals, including financial statements, for its consideration of the facts and issues involved in the hearing.** Treas. Reg. 301.6330-1 Q&A-D8 further states, **A face-to-face CDP conference concerning a collection alternative, such as an installment agreement or an offer to compromise liability, will not be granted unless other taxpayers would be eligible for the alternative in similar circumstances.** Eligibility requirements are those threshold conditions that must be met in order for Appeals to consider the taxpayer's proposed alternative to collection. The regulations give the filing of required returns, and making certain required deposits of tax, as examples of eligibility requirements.
- (3) If the taxpayer otherwise meets the criteria for an in-person conference, and the sole purpose of the CDP hearing is to discuss a collection alternative which the taxpayer does not appear eligible for, Appeals must give taxpayers an opportunity to present:
 - a. Required financial information
 - b. Unfiled returns
 - c. Evidence of deposit of tax necessary to enable consideration of collection alternative – see table below
- (4) If the sole basis of the CDP request is to discuss a collection alternative, give the taxpayer a reasonable opportunity (no fewer than 14 calendar days) to:
 - a. Demonstrate they are eligible for the collection alternative they seek (e.g., the taxpayer has already filed the required return or there was no filing requirement for a particular tax period), or
 - b. Become eligible by filing required returns and/or making required deposits of tax
 - c. Use the table below to assist in the determination to grant an in-person conference

Collection Alternative	IRM Reference	Financial Info		Unfiled Returns		ES/FTDs	
		Yes	No	Yes	No	Yes	No

Collection Alternative	IRM Reference	Financial Info		Unfiled Returns		ES/FTDs	
Installment payment agreement (including partial payment installment agreements) involving non-trust fund tax	<ul style="list-style-type: none"> IRM 5.14.1.3, Identifying Pending, Approved and Rejected Installment Agreements Proposals on IDRS, (regarding financial information) IRM 5.14.1.4.2, Compliance and Installment Agreements, (regarding unfiled returns and deposits of tax) 	X		X			X
Guaranteed or streamlined installment payment agreement	<ul style="list-style-type: none"> IRM 5.14.5, Streamlined, Guaranteed and In-Business Trust Fund Express Installment Agreements, (regarding financial information) IRM 5.14.1.4.2, Compliance and Installment Agreements, (regarding unfiled returns and deposits of tax) (Estimated Tax (ES) and Federal Tax Deposits (FTDs)) 		X	X			X
In-business trust fund installment agreement	IRM 5.14.7.4, In-Business Trust Fund Installment Agreements Requiring Financial Analysis and Determining Ability to Pay	X		X		X	
Express in-business trust fund installment payment agreement	IRM 5.14.5.4, In-Business Trust Fund Express Installment Agreements		X	X			X

Collection Alternative	IRM Reference	Financial Info		Unfiled Returns		ES/FTDs	
OIC for individual (based upon doubt as to collectibility)	<ul style="list-style-type: none"> IRM 5.8.3.5, Processing Forms 656 and Initial Offer Payments, (regarding financial information) IRM 5.8.7.2.2.2, Return for Inadequate Estimated or Insufficient Withholding Tax Payments, (regarding ES and adequate withholding (and that such is a basis for returning an offering but not a basis for not considering the offer)) 	X		X			X
OIC involving unpaid trust fund tax	<ul style="list-style-type: none"> IRM 5.8.4.21.1, Trust Fund Liabilities, (regarding financial information) IRM 5.8.7.2.2.3, Return for Failure to Make Timely Federal Tax Deposit, regarding FTDs (and that such is a basis for returning an offering but not a basis for not considering the offer) 	X		X			X

Caution: The determination of a taxpayer's eligibility for a collection alternative must be made without regard to the taxpayer's ability to pay the unpaid tax. Submission of financial information is not an opportunity for Appeals to prejudge the viability of a collection alternative prior to the conference. An in-person conference can't be denied because the initial review of the financial information shows that the taxpayer appears to be able to pay the tax in full or isn't able to make the payments proposed.

- (5) If the taxpayer meets the criteria for an in-person conference, as noted in IRM 8.6.1.5.1, and the sole basis of the CDP request is to discuss a collection alternative, give the taxpayer a reasonable opportunity (14 calendar days) to:

- a. **Demonstrate** they are eligible for the collection alternative they seek (e.g., the taxpayer has already filed the required return or there was no filing requirement for a particular tax period), or
 - b. **Become** eligible by filing required returns and/or making required deposit of tax
- (6) Advise the taxpayer that Appeals will schedule a telephone conference if he/she fails to provide the necessary financial information by the deadline.
 - (7) There may be instances in which a taxpayer needs more than 14 days to make a deposit of tax, prepare financial information or file a delinquent return. An extension to a deadline may be granted if the facts support it.
 - (8) If the taxpayer submits some but not all requested financial information, determine whether the information is sufficient to practically discuss the proposed collection alternative at an in-person conference. For example: the missing information is insignificant in determining ability to pay or may be easily obtained from a different, routinely used source.
 - (9) Do not condition an in-person conference on the production of supporting documents to the collection information statement for a taxpayer who otherwise meets the criteria for an in-person conference.
 - (10) Grant an in-person conference if the financial information is less than 12 months old as this meets the general eligibility requirement. An in-person conference may be conditioned on the submission of updated financial information if the taxpayer's financial condition is known to have significantly changed since the date the prior financial information was prepared.
 - (11) The following table contains scenarios to assist in determining whether a taxpayer should be granted an in-person conference when their sole issue is the discussion of a collection alternative:

Scenario	In-Person?
Taxpayer requests an in-person conference to discuss an IA. You inform the taxpayer that she must submit her unfiled returns for 2017 and 2018 to qualify for an IA and to obtain the in-person conference. Taxpayer states these will be refund returns and neglects to submit them by the deadline given.	No
Taxpayer requests an in-person conference to discuss a doubt as to collectibility OIC. She submitted a Form 433-A that was missing information. You determine there is sufficient information to discuss the merits of her OIC and that the missing information can be secured from another source.	Yes
Taxpayer requests an in-person conference to discuss evidence he has that shows payments made towards the liability are not reflected on his transcript. Since the taxpayer raised the issue of application of payments, you schedule an in-person conference.	Yes
Taxpayer requests an in-person conference for a collection alternative. Taxpayer states he does not understand how to calculate the offer amount on an OIC. You schedule an in-person conference to explain how to fill out Form 656.	Yes
Taxpayer requests an in-person conference for a precluded liability issue only , and has provided no substantive additional information or documentation for you to consider the liability as not precluded.	No

8.22.5.6.1.2
(08-31-2020)
**In-Person Conference
and Currently Not
Collectible (CNC)
Hardship**

- (1) If a taxpayer meets the criteria for an in-person conference, and the **sole purpose** of the CDP conference is to discuss CNC hardship, Appeals may require the taxpayer to provide the financial or other documentation necessary to consider the claim of CNC hardship as an additional condition to granting an in-person conference, unless Appeals determines that the in-person conference is necessary to explain the requirements for obtaining CNC-hardship status.
- (2) Give the taxpayer a reasonable opportunity (14 calendar days) to provide the financial or other documentation necessary to consider the claim of CNC hardship. Advise the taxpayer that Appeals must schedule a telephone conference if he/she fails to provide the necessary information by the deadline.
- (3) If a taxpayer submits some but not all of the requested financial or other documentation, determine whether the information is complete enough to practically discuss the CNC request at an in-person conference. If it is not, give the taxpayer a reasonable opportunity (14 calendar days) to supplement its submission to qualify for the in-person conference requested.
- (4) If a taxpayer otherwise qualifies for an in-person conference and the Unpaid Balance of Assessment (UBA) is less than \$10,000, the taxpayer may not need to submit financial information to qualify for CNC-hardship. See IRM 5.16.1.2.9, Hardship, and IRM exhibits 5.16.1-4, Currently not Collectible Table Hardship, and 5.16.1-5, Currently not Collectible Defunct Corporation and In-Business.

8.22.5.6.1.3
(12-03-2025)
Case Transfer Requests

- (1) Procedures regarding the transfer of cases can be found in IRM 8.6.1.5.2, Change of Appeals Technical Employee (ATE) After Initial Contact.
- (2) Generally, a taxpayer does not have the right to a conference with an AO other than the one assigned to his or her case. However, in CDP cases, where the AO has had prior involvement, the case must be reassigned to an AO with no prior involvement. If the assigned AO at the office closest to an individual taxpayer's residence, place of employment or school, or a business taxpayer's principal place of business had prior involvement, and there are no other AOs in that office, the taxpayer is not offered an in-person conference at that Appeals location unless the taxpayer waives the **no prior involvement** requirement. The taxpayer is offered an in-person conference at another Appeals office if the taxpayer otherwise qualifies for an in-person hearing. See Treas. Reg. 301.6330-1(d)(2). See IRM 8.22.5.4.1, No Prior Involvement.
- (3) Employees will utilize procedures in IRM 8.6.1.5.1, Conference Practice, or IRM 8.6.1.5.5, Video Conferences, when appropriate.

8.22.5.6.2
(08-11-2017)
Recording Requirements

- (1) Audio recordings are allowed in in-person conferences if a taxpayer provides:
 - 10 days advanced notice, and
 - Their own recording equipment
- (2) Review Notice 89-51, 1989-1 C.B. 691 for audio recording procedures. While this Notice requires 10 days advanced notice before a conference is to be recorded, Appeals may choose to waive this requirement.
- (3) Inform your ATM of audio recording requests and make an audio recording of the conference with IRS equipment.

- (4) The right to make an audio recording of an in-person conference does not extend to telephone conferences. If you become aware that a taxpayer or representative is recording or attempting to record a telephone conversation, advise that the recording must stop. If the recording is not stopped, terminate the call and document your CAR.
- (5) Taxpayers raising frivolous issues are not eligible for an in-person conference and thus, not eligible to make an audio recording of an Appeals conference.
- (6) Appeals allows stenographic recordings by court reporters provided they have the following credentials and the taxpayer qualifies for an in-person conference:
 - a. Qualified as a court reporter of the U.S. District Court,
 - b. An independent reporter qualified to take depositions for use in a U.S. District Court, or
 - c. Licensed or certified by any state to be a court reporter or to take depositions
- (7) Appeals audio records any conference where a stenographic recording is made. Request a copy of the stenographer's record. If costs involved are too high, do not secure a copy of the stenographer's record.
- (8) Additional audio recording procedures for Appeals are found in IRM 8.6.1.6, Audio and Stenographic Recording of Conferences.

8.22.5.6.3
(08-31-2020)
Multilingual Taxpayers

- (1) Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency" requires Federal agencies to:
 - a. Examine the services they provide,
 - b. Identify needs for services to those with limited English proficiency (LEP), and
 - c. Develop and implement a system that ensures meaningful access to necessary services for LEP persons
- (2) Guidelines and procedures for implementing Executive Order 13166 are found in IRM 22.31.1, IRS Language Services.
- (3) IRS contracts with an outside vendor to provide over-the-phone interpreter (OPI) services in over 170 languages. A conference using the OPI service consists of the Appeals employee, the taxpayer and the interpreter. The OPI service is fast, easy to use and available to everyone in Appeals. Step-by-step instructions for using the OPI service as well as other useful links and information are available on the Appeals Multi-Language Strategy (MLS) web page.
- (4) Per guidance issued by Disclosure, a minor child can serve as an interpreter for his/her parent during an Appeals conference.
- (5) A CDP may be transferred to an Appeals office with required cultural knowledge even if it does not otherwise qualify for transfer or an in-person conference.

8.22.5.6.4
(03-29-2012)
Specialized Industry Taxpayers

- (1) Recognize and be sensitive to taxpayers with issues that require specialized:
 - a. Industry knowledge (e.g., oil and gas, agriculture)
 - b. Legal expertise (e.g., community property law)

- (2) A CDP case may be transferred to an Appeals office with necessary industry or legal knowledge even if it does not otherwise qualify for transfer for an in-person conference.

8.22.5.7
(08-11-2017)

Pre-Substantive Contact Letter (SCL) on Resolved Case

- (1) You may discover the issue raised by a taxpayer in the CDP/EH request was fully resolved by Collection. Examples include:
- Full payment via refund offset
 - IA
 - Adjustment to the liability
 - Account placed in CNC status
- (2) In such instances, request a withdrawal using Letter 4388 and a 14 calendar day deadline.
- (3) If the taxpayer does not withdraw, issue the SCL per IRM 8.22.5.8 below.

8.22.5.8
(08-11-2017)

Substantive Contact Letters (SCL)

- (1) SCLs include information about the Appeals process and what Appeals considers as part of the CDP/EH hearing. See the table below to determine the appropriate SCL to use for your case:

Letter Number	Purpose	Time Frame for Issuing
Letter 4837	<ul style="list-style-type: none"> • Schedule the conference • Inform taxpayers of the opportunity to request an in-person conference • Request supplemental information or documentation 	<ul style="list-style-type: none"> • Standard Case: 30 days from receipt • Rapid Response Appeal Process (RRAP) Case: 10 days from assignment to Appeals hearing officer. See IRM 8.22.6.2.1, RRAP Procedures • Liability Issue Case: 60 days from receipt if the case involves a liability challenge requiring a return and/or administrative file • Frivolous Issue Case: 15 days if a response is received to Letter 4380 with relevant issue(s) raised and previous frivolous arguments or issues are withdrawn (see Letter 3846 below for case in which the frivolous arguments are not withdrawn)
Letter 3846	<ul style="list-style-type: none"> • Offers taxpayer raising frivolous or delaying arguments an opportunity to withdraw such arguments or issues • Provides information about possible imposition of IRC 6702(b) penalty • Informs taxpayer that he/she is not entitled to an in-person conference 	<ul style="list-style-type: none"> • 15 days if a response is received to Letter 4380 with relevant issue(s) raised and previous frivolous arguments or issues are not withdrawn • 30 days receipt if both frivolous and relevant issues have already been raised

- (2) Letter 4837 is **not required** by statute, so separate correspondence to joint filers is not required. Conversely, combination UAL-SCL Letter 3846, which advises taxpayers that the CDP hearing request contains a frivolous argument and informs them of the right to withdraw the argument to avoid a civil penalty under IRC 6702(b), **is required** by statute and must be sent separately to joint filers.
- (3) If a conference takes place before the issuance of the Letter 4837 or if substantive contact is made by telephone, the SCL is not necessary provided you discuss the key items addressed in the SCL. Document your discussion of these items in your CAR:
 - Timeliness of the hearing request
 - Appeals independence
 - Your impartiality
 - Types of hearings available: teleconference, correspondence and in-person
 - Appeals verifies legal and administrative procedures were met, considers issues raised and conducts a balancing test
 - If timely CDP, availability of Tax Court rights
 - Accrual of interest on an unpaid liability
 - The taxpayer's right to representation
- (4) An SCL is issued for the key CDP case and not for related WUNOs (DP case types, usually IS, OIC or INT).
- (5) If the case is placed in a suspended status prior to issuance of the SCL, issue the SCL after the case is taken out of suspense. The following table contains common reasons why a CDP case is suspended and where guidance on the issue may be found:

Reason for Suspense	IRM Reference	ACDS Status Code
IS	IRM 8.22.8.8	E/OTH
OIC under Consideration by Collection	IRM 8.22.7.10.1.2	E/OIC
Criminal Investigation	IRM 8.22.6.10	E/OTH
Bankruptcy	IRM 8.22.6.8	E/BNK
Combat Zone	IRM 8.22.6.12	E/OTH
Liability Being Considered by AO	IRM 8.22.8.5.1	E/AP
TFRP	IRM 8.22.8.10.1	E/OTH

8.22.5.8.1 (11-08-2013) Establishing Deadlines

- (1) Deadlines in CDP are determined on a case-by-case basis and often communicated in the SCL. Before establishing a deadline, consider:
 - The complexity or volume of information needed, and
 - The circumstances of the taxpayer

- (2) Allow at least 14 calendar days for a taxpayer to collect and provide information necessary for considering collection alternatives or issues of dispute.
- (3) Allow at least 21 calendar days for a taxpayer to file or amend a tax return.
- (4) If a taxpayer requests an extension of time to provide information requested, the deadline may be extended.
- (5) If a taxpayer fails to provide information requested, proceed based on the information available and note this in your determination/decision. A taxpayer's failure to provide information requested precludes Appeals from considering collection alternatives.

8.22.5.8.2
(12-03-2025)

No Response Cases

- (1) If a taxpayer does not respond to the SCL letter, you **must** make a second attempt at contact. In such instances, your case history must reflect a minimum of two contact attempts.
- (2) Letter 4000, Last Opportunity, is the preferred method for the second contact attempt. If the second attempt is made by telephone, document it in the CAR.
- (3) For the second contact attempt:
 - a. Give the taxpayer a reasonable and specific deadline to respond. As a general rule, allow 14 calendar days
 - b. Ask the taxpayer if he/she has any further information for consideration
 - c. Inform the taxpayer that Appeals must proceed with its determination(s) based on the administrative file and whatever other information the taxpayer previously provided if the taxpayer does not respond
 - d. The issuance of Letter 4000 does not preclude giving the taxpayer a second opportunity for a CDP conference **if** the circumstances warrant.
- (4) A well documented administrative file with copies of all correspondence is critical in such cases. If a taxpayer petitions claiming you did not allow a reasonable opportunity to participate or respond, the Tax Court relies on the administrative file to evaluate whether you abused your discretion.

8.22.5.9
(12-03-2025)

Collection Due Process Timeliness Determinations (CDPTD)

- (1) Appeals makes a separate timeliness determination for CDP cases in the following instances:

The CDP hearing request was not timely, and the taxpayer did not check the EH box on Form 12153 or verbally request an EH. See IRM 8.22.5.3.1, Determining Timeliness - General Procedures.
The CDP hearing request was timely but not processable. The taxpayer perfected the hearing request late and did not request an EH.
The EH request was not timely received. See IRM 8.22.5.3.1.2, Determining Timeliness - Equivalent Hearing, and IRM 5.1.9.3.2.2, Equivalent Hearing (EH) and Timeliness of Equivalent Hearing Requests.
The taxpayer perfected the hearing request after the time period specified by Collection and after the one-year period for requesting an EH.

- (2) Collection transmits the following documents to APS:
 - a. Form 12153
 - b. The envelope the request was mailed in
 - c. A copy of the CDP notice (Letter 3172, LT11, etc.)
 - d. Any written correspondence to and from the taxpayer, including any documents submitted by the taxpayer
 - e. History (only ACS required to fax history; Appeals has access to ICS history on field RO cases)
 - (3) APS cards in the separate timeliness determination case as TYPE = CDPTD in the OTHER/Miscellaneous category.
 - (4) Appeals Account Resolution Specialist (AARS) works and closes CDPTD requests within five workdays of assignment.
 - (5) If a taxpayer raises the issue of equitable tolling in the CDP request, work with your manager to reassign it to a settlement officer.
- Note:** Taxpayers are not required to specify the term “equitable tolling.” Any reasons given to support the CDP request being considered timely or that the request should be entitled to judicial review constitutes raising equitable tolling.
- (6) If Collection misidentifies a case on Form 14461 or Form 12153-B and APS cards the case in as a DPXX, request APS:
 - Reverse the TC 520 with TC 522. TC 522 reverses all open TC 520s having either CC 76 or 77
 - Reverse the TC 971 AC 275 with a TC 972 AC 275
 - Close the case using CC 14 because Appeals sustains Collection’s timeliness determination that the request was not timely.
 - (7) For a case referred as a DPXX case where you determine that one or more of the periods are untimely, request APS:
 - Delete the untimely periods from the CSC
 - Reverse the TC 971 AC 275 with a TC 972 AC 275
 - Reverse the TC 520 with TC 522

8.22.5.9.1
(08-31-2020)
**CDPTD Closing
Procedures**

- (1) Select one (or both) of the following paragraphs appropriate to the CDPTD:
 - a. CDP-EH request was untimely USPS postmarked or metered, or was received greater than one-year after issuance of the CDP notice
 - b. CDP hearing request was untimely received and the taxpayer did not request an EH.

Note: If you select both paragraphs you need to clearly identify which tax periods apply to each paragraph.
- (2) Enter the periods for which Appeals does not sustain Collection’s timeliness determination in the “Remarks” section of Form 5402.

Note: Sometimes the Form 12153 contains multiple tax periods from more than one CDP notice and the request for a hearing can be timely for some periods and not timely for others.

(3) Procedures for CDPTD paperwork:

- a. Provide a copy of Form 5402 to STARS for entry of the ACAP date on ACDS.

Note: There is no need for a STARS or ATM signature on the form.

- b. Provide copy of Form 5402 to APS to close case on ACDS.
- c. Return Form 5402 to the Outlook e-mail address of the originator of the referral.

(4) Use the table below to determine the cc for a CDPTD case where Collection considered the CDP request untimely:

IF...	AND...	THEN...
Appeals determines the CDP request was not received timely	The taxpayer did not request an EH	Use cc 14, Appeals sustains Collection's timeliness determination
Appeals determines the CDP request was received timely		Use cc 15, Appeals does not sustain Collection's timeliness determination
Appeals determines the CDP hearing request was received timely for some of the periods and not timely for others	The taxpayer did not request an EH	Use cc 16, Appeals partially sustains Collection's timeliness determination Note: Specify in the "Remarks" section of Form 5402 which periods are timely and which are not timely

(5) Use the table below to determine the cc for a CDPTD case where Collection considered the CDP request to have been perfected late:

IF...	AND...	THEN...
Appeals determines the CDP request was not received timely		Use cc 14, Appeals sustains Collection's timeliness determination
Appeals determines the CDP request was received timely but was not processable when submitted by the taxpayer	<ul style="list-style-type: none"> The taxpayer was given a reasonable period of time to perfect the hearing request (see IRM 5.1.9.3.2.3, Perfection of Hearing Requests, (field) and IRM 5.19.8.4.3.2, Perfection of Timely Equivalent Hearing Requests, (ACS), and The taxpayer failed to perfect the hearing or perfected it beyond the time period for perfection 	Use cc 14, Appeals sustains Collection's timeliness determination

IF...	AND...	THEN...
Appeals determines the CDP request was received timely but was not processable when submitted by the taxpayer	<ul style="list-style-type: none"> The taxpayer perfected the hearing request with a timely and adequate response within the reasonable time period specified by Collection, or The taxpayer perfected the hearing request beyond the time period of perfection, but the time period for perfection was not reasonable under the circumstances 	Use cc 15, Appeals does not sustain Collection's timeliness determination

- (6) Use the table below to determine the cc for a CDPTD case where Collection considered the EH request untimely:

IF...	THEN...
Appeals determines the EH request was not received timely	Use cc 14, Appeals sustains Collection's timeliness determination
Appeals determines the EH request was received timely	Use cc 15, Appeals does not sustain Collection's timeliness determination
Appeals determines the EH request was received timely for some periods and not for others	Use cc 16, Appeals partially sustains Collection's timeliness determination Note: Specify in the "Remarks" section of Form 5402 which periods are timely and which are not timely

- (7) Use the table below to determine the cc for a CDPTD case where Collection considered the CDP request to have been perfected late:

IF...	AND...	THEN...
Appeals determines the EH request was not received timely		Use cc 14, Appeals sustains Collection's timeliness determination

IF...	AND...	THEN...
Appeals determines the EH request was received timely but was not processable when submitted by the taxpayer	<ul style="list-style-type: none"> • The taxpayer was given a reasonable period of time to perfect the hearing request (see IRM 5.1.9.3.2.3, Perfection of Hearing Requests, (field) and IRM 5.19.8.4.3.2 (ACS), and • The taxpayer failed to perfect the hearing or perfected it beyond of the time period for perfection and after the one year period for requesting an EH 	Use cc 14, Appeals sustains Collection's timeliness determination
Appeals determines the EH request was received timely but was not processable when submitted by the taxpayer	<ul style="list-style-type: none"> • The taxpayer perfected the hearing request with a timely and adequate response within the time specified by Collection, or • The taxpayer perfected the hearing request beyond the time period of perfection, but the time period for perfection was not reasonable under the circumstances 	Use cc 15, Appeals does not sustain Collection's Timeliness Determination

Exhibit 8.22.5-1 (12-03-2025)
Electronic CDP Step-by-Step Guidance

Step-by-Step Guidance

1	APS cards the new CDP/EH case and uploads the PDF documents from SharePoint to ACDS.	APS will create the new case receipt in ACDS, attach the electronic file received from Collection to the ACDS WUNO, and add the feature code PL to indicate it is a paperless case.
2	Case assigned to an AO.	In ACDS, the ATM or delegate reviews the new receipts and selects an AO to be assigned the case(s).
3	The AO manages the case following current policy and converts documents received to an electronic format that is attached to ACDS.	The AO works the CDP/EH case under existing procedures. The AO should encourage the taxpayer to submit any additional information via their EEFax number or other approved electronic means. Any paper documents sent to or received from the taxpayer are converted to an electronic format and attached to ACDS. Documents are attached and named as indicated in the IRM 8.22.4-4 Exhibit, CDP Naming Conventions for Electronic Attachments to ACDS.
4	Related work units may be managed as a paper file.	For new PL cases received after the effective date of this memorandum, any CDP related WUNOs should be managed as a paper file unless the initial case information is received from Compliance digitally. For example, until OIC cases come to Appeals via a digital method, manage the case as a paper case file. When the related WUNO is managed digitally, ensure it is identified by a PL feature code.
5	Destroy original documents once scanned.	<p>Whether for a CDP or EH case, and consistent with existing guidance, original documents received from the taxpayer, representative, or Collection (e.g., in response to an Appeals Referral Investigation (ARI)) should be destroyed after confirming they were successfully scanned and attached to ACDS.</p> <p>Retain electronically all documents you reviewed in making your determination. Such documentation is necessary to frame the complete basis of your decision, which is critical in the event a case needs to be defended in Tax Court. See IRM 8.22.9.2, Administrative Record, for details of the administrative record.</p>
6	<p>The AO prepares all closing documents and secures the approval of the ATM, when needed*.</p> <p>Closing documents are attached to ACDS. *Certain cases do not require ATM approval.</p>	<p>At closure, the AO prepares all closing documents (generally, Form 5402 and closing letters) electronically or in paper form, depending on the signature method that is chosen. There is no single method by which documents must be prepared as long as the final, signed PDF document is attached to ACDS.</p> <p>Note: Electronic signatures must follow guidance in IRM 8.22.4.2.4, Use of Digital Signatures. ATMs must also follow the file naming conventions for any documents they sign.</p>

Exhibit 8.22.5-1 (Cont. 1) (12-03-2025)
Electronic CDP Step-by-Step Guidance

1	APS cards the new CDP/EH case and uploads the PDF documents from SharePoint to ACDS.	APS will create the new case receipt in ACDS, attach the electronic file received from Collection to the ACDS WUNO, and add the feature code PL to indicate it is a paperless case.
7	For ATM reviewed cases, the ATM reviews the case and signs all necessary closing documents.	If the ATM concurs with the case resolution, they will review the closing documents and attach the final, signed documents to ACDS as a PDF.
8	The ATM enters the ACAP date in ACDS and then notifies APS that the case is ready for closure.	When the ATM enters an ACAP date to the ACDS database, the approved case is electronically transmitted to the appropriate APS PEAS Inbox using the Direct Ship criteria. Note: After entering the ACAP date, when asked "Do you want Action Code SHIPPED input on ACDS," select 'No.'
9	APS applies the date of mailing and certified mail receipt number.	APS applies dates to the Form 5402 and closing letter(s). The closing letter(s) is sent certified or regular mail as required by the hearing type.
10	APS includes a PDF of the closing letter with the date and certified mail receipt number and attaches it to ACDS.	APS includes a final PDF of the dated closing letter(s) issued to the taxpayer and/or the POA and attaches the letter(s) to ACDS.
11	Retain related paper files.	When an NOD is issued, or when an EH Decision Letter is issued (where the timeliness of the appeal is in dispute), retain with the case any related WUNO paper files or other administrative paper files that were secured from closed files and which were used in making your determination or decision. Note: This typically is for when a liability issue is considered for a TFRP assessment or Examination assessment, but may include other paper administrative records. The documents are forwarded to APS by the ATM or ATE after ACAP is entered, following the case routing instructions in ACDS. APS will suspend these related paper files along with the electronic CDP or EH administrative file by following current guidance in IRM 8.20.6.20.2, CDP Notices of Determination (NOD).

Exhibit 8.22.5-1 (Cont. 2) (12-03-2025)
Electronic CDP Step-by-Step Guidance

1	APS cards the new CDP/EH case and uploads the PDF documents from SharePoint to ACDS.	APS will create the new case receipt in ACDS, attach the electronic file received from Collection to the ACDS WUNO, and add the feature code PL to indicate it is a paperless case.
12	Cases closed with Electronic Case Closure (ECC) procedures.	For closures of field originated CDP cases where an agreement has been reached and a waiver or withdrawal has been secured, the Collection Appeals ATM will retain these files until such time that APS informs them closing actions have been processed, in accordance with ECC procedures. CDP cases where a NOD is issued do not qualify for closure via ECC procedures (IRM 8.20.7.2.4).
13	Certain Paper Case Closures Returned via SharePoint.	<p>Certain closures should be sent by the AO/ATM to APS via the support request SharePoint. These cases are closed using ECC procedures and include:</p> <ul style="list-style-type: none"> • Withdrawals • Premature referrals • Frivolous/Disregarded cases closed with L4381 <p>Include the original PDF file, closing documents and digital copies of any other documents submitted to Appeals. APS will forward the documents to the originator of the case in Collection*.</p> <p>*RO and GM contact information can be found on Form 14461, Transmittal of CDP/Equivalent Hearing Request, located within the original PDF upload received from Collection.</p>
14	Cases NOT closed with Electronic Case Closure (ECC) procedures.	For CDP Field cases where an NOD must be issued, Collection Appeals sends any ride-along paper file (if there is one) to APS to issue the NOD, monitor the Tax Court filing or default and close.
15	At the appropriate time, APS closes the case on ACDS. When applicable, upload the certified mailing receipt to ACDS.	After any applicable case suspense period, APS closes the case on ACDS and performs all established closing procedures following IRM 8.20.7.20.11.2, Revenue Officer Notification of CDP and EH Closures, including inputting TC 290 for -0-and NSD (no source document).

Exhibit 8.22.5-1 (Cont. 3) (12-03-2025)
Electronic CDP Step-by-Step Guidance

1	APS cards the new CDP/EH case and uploads the PDF documents from SharePoint to ACDS.	APS will create the new case receipt in ACDS, attach the electronic file received from Collection to the ACDS WUNO, and add the feature code PL to indicate it is a paperless case.
16	APS forwards to Collection the digital attachments from ACDS.	<p>Except for the PDF file Collection sent with the initial referral to Appeals, upon closing the CDP case, APS will send all other ACDS digital attachments to the RO via encrypted e-mail with a “cc” to the RO group manager. Contact information can be found on the Form 14461 that was in the PDF file sent to Appeals.</p> <p>If neither Collection recipient is available via e-mail, APS will take no further action. If the digital attachments are later needed by Collection, they will contact the Appeals AARS Customer Service Team via its <i>Customer Service SharePoint page</i> and choose “Submit Customer Service Request Form”.</p>
17	The electronic file resides on ACDS.	When the CDP case is entirely electronic, there will not be any administrative paper file to send to “files.” These administrative files are housed on ACDS and purged at a later time.