

IRM PROCEDURAL UPDATE

DATE: 04/15/2013

NUMBER: SBSE-05-0413-0742

SUBJECT: Collection Due Process

AFFECTED IRM(S)/SUBSECTION(S): 5.19.8.4

CHANGE(S):

IRM 5.19.8.4.7.5(1) Added a note to indicate that when cases are transshipped, the receiving site stamp date will be used to base the five day requirement.

1. The following actions:
 - o Case Assignment
 - o CDP Tracking System (CDPTS) update
 - o ACS Actions
 - o Case Actions

are required within **five** workdays of receipt of a processable Form 12153 or other request for CDP or equivalent hearing in ACS Support / CDP Unit.

NOTE: Sometimes at the direction of headquarters, CDP work must be transshipped from one site to another to balance workloads. In these situations, the date stamp of the site that receives the transshipped work will be used to base this five day requirement.

IRM 5.19.8.4.7.5(5) third bullet: Indicated the various types of Collection Information Statements that must be requested from the taxpayer when required.

5. **Case Actions -**
 - o Review the case for completeness.
 - o Contact the taxpayer by phone for clarification of his request or to obtain missing information.
 - o If unable to reach the taxpayer by phone, write a letter to ask for any clarification needed, request missing information, and include any forms that need to be completed (e.g. 656, Form 433F, Collection Information Statement, Form 433-A, Collection Information Statement for Wage Earners and Self-Employed or Form 433-B, Collection Information Statement for Businesses, etc.) Give the taxpayer a 15 - day time frame for responding.

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

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

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

IRM 5.19.8.4.9(4) Added instructions prohibiting ex parte communications when completing the Form 12153-B.

4. Form 12153B, Referral Request for CDP Hearing from ACS Support, is designed to assist ACS Support users in preparing a case for referral to Appeals. It also helps Appeals personnel when performing the initial screening and processing actions of the received CDP cases and is required with all Forms 12153 going to Appeals. Managerial review and approval is required. In addition, any narrative statement included on the Form 12153-B must be limited to a neutral list of documents and neutral statements regarding actions taken and documented in the case history, without any further discussion regarding the strengths and weaknesses of the taxpayers' appeal. The manager must ensure this requirement is met and that no prohibited ex parte communications are included before approving transmittal of the case to Appeals. For additional information refer to IRM 5.1.9.5, Communications with Appeals.

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

IRM 5.19.8.4.9(5) second bullet: Changes instructions to require a copy of the CDP notice to be included with CDP cases forwarded to Appeals.

5. Information needed in the case file for Appeals (what to include):
 - Forms 12153, 12153B, original returns (if case is going to Memphis APS), plus any correspondence or forms completed by the taxpayer.
 - Copy of LT11, LT73, CP90/297, CP92 or CP77 if returned by the taxpayer. If not, request a copy from the taxpayer during your contact attempt. If not received within the timeframe you specified, obtain a copy of the notice from the Control-D system. If the notice cannot be located on Control-D, obtain a copy of the Certified Mail Listing from the Collection Due Process Certified Mail System.
 - Copy of Letter 3172, Notice of Federal Tax Lien, if returned by the taxpayer. If not, provide a copy off the Automated Lien System (ALS).
 - Prints of AMS screens. .
 - Information on any levy that is still outstanding and what tax periods are involved.

REMINDER: For ALP cases with a TC910, TC916, or TC918(CID), annotate on the Form 12153B which TC is involved. If a TC916 or TC918 is involved, identify which Fraud Detection Center input the transaction (see IRM 5.19.1.7.14, CID Indicators on Balance Due Cases). Additionally, be sure to annotate if the case was treated as "no contact". IRM 5.19.8.4.7. Processing CDP and Equivalent Hearing Requests.

IRM 5.19.8.4.9(9) Inserted new paragraph stating that letter 4473C can be used to notify the taxpayer that his/her CDP case has been forwarded to Appeals.

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

IRM 5.19.8.4.14(8) Specified that backend cases will be controlled on AMS.

8. ACSS-CDP Units ACS/AMS actions for working CDP backend:
 - Control the cases on AMS to the employees assigned to working the backend cases within 7 days of receipt from APS.
 - Monitor to ensure the case comes back onto ACS after input of TC521, STAUP 2200 and TSIGN 0604 to prevent any adverse actions.

- Immediately take the sustained collection action, as indicated on the listing as directed by Appeals' determination.

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

- Move to the next appropriate function with the appropriate follow-up days. See IRM 5.19.4, Enforcement Action.
- Update AMS comments of Appeals' determination and the collection actions taken. If these actions close the CDP, add to ACS notes section: ***CDP/CLSD mm/dd/yyyy LN or LV and tax year(s) e.g. 2006, 2007***.
- Update AMS comments if the account will not or cannot be brought back onto ACS.
- Destroy file copy of Form 12153B and associated documents.
- Process all backend cases within 30 days of receipt of the backend case listing.