



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

8.22.6

AUGUST 26, 2020

EFFECTIVE DATE

(08-26-2020)

PURPOSE

- (1) This transmits revised IRM 8.22.6, *Collection Due Process, Cases Requiring Special Handling*.

MATERIAL CHANGES

- (1) The material changes in this revision are as follows:

IRM	Title and Brief Description
8.22.6.1, Program Scope and Objectives	Revised this section, creating a new section for Program Scope and Objectives.
8.22.6.1, Background	New subsection added for Background.
8.22.6.1.2, Authority	New subsection added for general authorities.
8.22.6.1.3, Responsibilities	New subsection added to state program responsibilities.
8.22.6.1.4, Program Reports	New subsection added for program reports.
8.22.6.1.5, Terms and Acronyms	Refers users to an IRM exhibit at 8.22.4-3 for the most common program related terms and acronyms.
8.22.6.3.3, Disqualified Employment Tax Levy (DETL)	At (7)(Line 5) and (8)(Line 3), revised that money may not be returned if the request for its return is made more than two years after a levy takes place. Cited IRC 6343(b)(3).
8.22.6.4, International Cases (IC)	<ul style="list-style-type: none">At (3), clarified process for Examination Issue International referrals.At (6), added contact information for the Collection Issue International Team in Appeals.

IRM	Title and Brief Description
8.22.6.8, Bankruptcy	<ul style="list-style-type: none"> • At (2), added to return a CDP OIC using a stand-alone Letter 5010 upon learning a taxpayer filed bankruptcy. • At (4), revised procedure for when an NOD has been issued and the taxpayer subsequently files bankruptcy. • At (6), added to consult with local Counsel for issues involving receivership, assignments for the benefit of creditors or other insolvency. Added a cross-reference to IRM 5.9.20.
8.22.6.9.1, Restitution- Based As- sessments (RBA)	Revised to incorporate interim guidance memorandum AP-08-1218-0014.
8.22.6.10, Criminal Investiga- tion (CI) Indicators	<ul style="list-style-type: none"> • At (2), added contact information for aCI contact from whom to secure the name of a CI special agent assigned to a case. • At (3), relocated content formerly at (2) to (3).
8.22.6.11, Decedent	At (3), revised with guidance on how to address correspondence and forms for decedent cases. Added cross-reference to IRM 21.3.3
8.22.6.14, Related Cases Pending in Litigation	New subsection added for related cases that may have pending litigation outside of CDP.
8.22.6.15, Related Periods Assigned to a Private Collection Agency (PCA)	New subsection dealing with tax periods assigned to a PCA.
8.22.6.16, Cases with Passport Revocation	New subsection added for passport revocation issues.
8.22.6.17, Posting of a Letter of Credit or Bond	New subsection added for guidance pertaining to the posting of a letter of credit or bond.

IRM	Title and Brief Description
Throughout	Revised to: <ul style="list-style-type: none">• Update citations and references.• Incorporate plain language writing, active voice and organization.• Table multistep or complex content when appropriate.

EFFECT ON OTHER DOCUMENTS

IRM 8.22.6 dated August 9, 2017, is superseded. This revision also incorporated Interim Guidance Memoranda AP-08-1218-0014, Handling of IRC 6201(a)(4) Interest and Penalty Additions in Collection Due Process Cases with Restitution Based Assessments, dated December 12, 2018.

AUDIENCE

Appeals Officers, Appeals Account Resolution Specialists and Appeals Team Managers.

Steven M. Martin,
Director, Case and Operations Support

8.22.6

Cases Requiring Special Handling

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8.22.6.1
(08-26-2020)
Program Scope and Objectives

- (1) Purpose: This section provides guidance to Appeals Technical Employees (ATEs) for certain specialty issues arising in Collection Due Process (CDP) cases.
- (2) Not every specialty issue is discussed in this section. Instructions for some cases and issues fit better in other sections as listed in the table below.

Specialty Issue	IRM
Currently not collectible	IRM 8.22.7.7
Earned income tax credits	IRM 8.22.8.10
Innocent spouse	IRM 8.22.8.9
Interest abatement	IRM 8.22.8.17
Math errors	IRM 8.22.8.8
Offers in compromise	IRM 8.22.7.10
Penalties	IRM 8.22.8.12 through IRM 8.22.8.16
Qualified offers	IRM 8.22.8.21
Son of Boss	IRM 8.22.8.20
Tax Equity and Fiscal Responsibility Act	IRM 8.22.8.19
Trust Fund Recovery Penalties	IRM 8.22.8.11

- (3) Audience: The primary users of this IRM section are ATEs and Appeals Team Managers (ATMs) handling Collection Due Process (CDP) and Equivalent Hearing (EH) cases.
- (4) Policy Owner: Director, Case and Operations Support.
- (5) Program Owner: Director, Policy, Planning, Quality and Analysis (PPQ&A).
- (6) 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.

8.22.6.1.1
(08-26-2020)
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.

8.22.6.1.2
(08-26-2020)
Authority

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

- 8.22.6.1.3
(08-26-2020)
Responsibilities
- (1) The Policy analyst shown as the originator on the Product Catalog page is the assigned author of this IRM.
- 8.22.6.1.4
(08-26-2020)
Program Reports
- (1) PPQ&A provides trend and data analyses and detailed summary reports for Appeals.
- 8.22.6.1.5
(08-26-2020)
Terms and Acronyms
- (1) See IRM Exhibit 8.22.4-3, Common Terms and Acronyms Used in Collection Due Process, for such common terms and their definitions.
- 8.22.6.2
(09-25-2014)
Rapid Response Appeals Process (RRAP)
- (1) RRAP delivers priority CDP hearings for cases meeting **ALL** of the following criteria:
- a. In-business taxpayer owing employment taxes
 - b. Taxpayer is not making Federal Tax Deposits (FTD) in the current quarter
 - c. Unpaid tax due including accruals is \$10,000 or more
 - d. Receipt of a *timely* request for an IRC 6330 hearing or a combination IRC 6330 and IRC 6320 hearing
 - e. No existing tax periods for which levy action may be taken, such as those subject to an equivalent hearing, those for which an IRC 6330 hearing has already been held, or the one year period to request an equivalent hearing has expired. If levy action can be taken for another tax period, the IRC 6330 hearing does not qualify for RRAP
- (2) Cases excluded from RRAP include:
- a. Equivalent hearings (EH)
 - b. Request solely for an IRC 6320 hearing
 - c. Disqualified Employment Tax Levy (DETL)
 - d. Not forwarded to Appeals within 45 calendar days of Collection's receipt of the taxpayer's request for a CDP hearing
 - e. Case not submitted via encrypted e-mail
- (3) To be considered under RRAP, a case must be identified as such by Collection prior to being forwarded to Appeals using the RRAP procedures below.
- (4) After approval by the revenue officer's group manager, the digitized case documents listed below must be forwarded to the appropriate Appeals RRAP Technical Coordinator via encrypted e-mail with a courtesy copy to the appropriate RRAP Account and Processing Support (APS) Coordinator within 45 days of the date Collection received the taxpayer's written request for a CDP.
- (5) Collection sends RRAP cases via encrypted e-mail to the Appeals RRAP Technical Coordinators and the RRAP APS Coordinators as follows:

SB/SE Areas	send RRAP cases to Appeals...
<ul style="list-style-type: none"> • North Atlantic • South Atlantic • Central • Gulf Area states of Alabama, Georgia, Louisiana, Mississippi and Tennessee • Midwest Area state of Indiana 	RRAP Technical Coordinator and RRAP APS Coordinator - EAST
<ul style="list-style-type: none"> • California • Western • Gulf Area states of Arkansas, Oklahoma and Texas • Midwest Area states of Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota and Wisconsin 	RRAP Technical Coordinator and RRAP APS Coordinator - WEST

RRAP Technical Coordinator contact information is found on the *Appeals Case Routing* page via the *Case Routing Address and Instructions* hyperlink.

- (6) The e-mail subject line should contain “CDP IBTF RRAP Case - XXXX” where XXXX reflects the case name control.
- (7) The file must include the following digitized documents:
 - Form 12153, Request for a Collection Due Process or Equivalent Hearing, or substitute written request
 - Form 14461, Transmittal of CDP/Equivalent Hearing Request with a note indicating if financial information is available
 - Copy of the CDP Notice, Letter 1058, Notice of Intent to Levy and Notice of Your Right to a Hearing, and if the request is for a hearing under both IRC 6320 and IRC 6330, a copy of Letter 3172, Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320
 - Copy of the envelope
 - Form 433-B or other financial documentation if available
 - Additional documentation/correspondence sent with the Form 12153
 - Any additional documentation/information in the case file pertinent to the issue(s) raised by the taxpayer

8.22.6.2.1
(09-25-2014)
RRAP Procedures

- (1) The Appeals Team Manager (ATM) assigns the case to a hearing officer within 5 business days of being notified the work unit is established on Appeals Centralized Database System (ACDS).
- (2) RRAP cases are subject to the initial review, control and documentation requirements in IRM 8.22.5, Receipt, Control and Pre-Conference Considerations. Also, the hearing officer confirms:
 - Case meets RRAP criteria

- Loc 7 field = RRAP
- ACDS feature code = PY

(3) If a case does not meet RRAP criteria, take the following steps:

Step	Action
1	<ul style="list-style-type: none"> • Remove "RRAP" from the loc 7 field • Remove ACDS feature code "PY"
2	Send an encrypted e-mail to the revenue officer explaining why the case does not meet RRAP criteria
3	Complete an <i>Appeals Officer Closing Code 30/40 Transfer Form</i>
4	Submit the case to the ATM for forwarding to the appropriate Appeals office to be worked through normal CDP procedures

(4) After completing your initial case review:

- Contact the taxpayer with a Substantive Contact Letter or telephone within 10 business days of assignment
- Generally, a hearing is held within 14 calendar days of the date of the SCL or telephone call. The hearing may be delayed if the facts warrant it
- Follow IRM 8.22.5.8.2, No Response Cases, if the taxpayer or representative does not respond to your offer of an Appeals hearing

(5) When closing the RRAP case:

- Prepare a Notice of Determination within 14 calendar days of either the date the hearing was held or the last day for the taxpayer to reply to the Letter 4000, Last Chance Letter, unless the taxpayer signed a Form 12257, Summary Notice of Determination, or Form 12256, Withdrawal
- If either a Form 12257 or Form 12256 is secured, prepare the closing documents and forward the case to the ATM within 7 calendar days of the receipt
- Indicate "RRAP case" in the Special Features section of the Form 5402, Appeals Transmittal and Case Memo
- Prepare a fax cover sheet for APS to use in sending information to the revenue officer when the case is closed, and
- Forward the case to the ATM for approval

8.22.6.3
(11-05-2013)

**Exceptions to IRC 6330
Pre-Levy Notice
Requirements**

(1) IRC 6330(f) provides 4 exceptions to the pre-levy notice requirements in IRC 6330:

- Jeopardy levy
- State Income Tax Levy Program (SITLP)
- Disqualified Employment Tax Levy (DETL)
- Levy on a Federal Contractor (FEDCON)

- (2) When the IRS levies prior to issuing a CDP notice in these circumstances, the taxpayer is given the opportunity for a CDP hearing via a post-levy CDP notice issued within a reasonable period of time after the levy. The subsections below discuss each of the exceptions.

8.22.6.3.1
(08-09-2017)
Jeopardy Levy

- (1) If collection is believed to be in jeopardy, a jeopardy levy may be issued before or after the taxpayer has been given a CDP notice. The levy may or may not involve the collection of a jeopardy assessment. After a jeopardy levy, a taxpayer will be issued a CDP notice and Letter 2439, Notice of Jeopardy Levy and Right of Appeal. Letter 2439 informs the taxpayer of the right to an IRC 7429 review. See IRM 8.24.2, Jeopardy Levy Appeals.
- (2) If your CDP involves a jeopardy levy, add feature code 'JL' to ACDS.
- (3) A taxpayer is entitled to an IRC 7429 review if the jeopardy levy is made fewer than 30 days after the IRS gives the taxpayer the notice described under IRC 6331(a). A jeopardy levy made outside the 30-day time frame under IRC 6331(a) is not entitled to an IRC 7429 review. See Chief Counsel Advice 200242040.
- (4) If the taxpayer requests only a CDP hearing, ask if the taxpayer wants an IRC 7429 review as well. The opportunity to request a IRC 7429 review does not preclude the taxpayer from disputing liability in the CDP hearing because liability is not at issue in IRC 7429 review.
- (5) To qualify for an IRC 7429 review:
- The taxpayer must file a written protest with the Area Director within 30 days of the date Letter 2439 was given to the taxpayer or within 30 days of the date Letter 2439 was required to be given to the taxpayer under IRC 7429(a)(1)(B), and
 - Written protest was sent to the address listed on the Letter 2439
- (6) If the taxpayer meaningfully participates in an IRC 7429 administrative or judicial review in which a decision is made about the reasonableness of the jeopardy determination or the appropriateness of the amount of the jeopardy assessment, the taxpayer is precluded from raising those issues in the CDP hearing. See IRM 8.22.5.5.1.
- (7) If the taxpayer requests an IRC 7429 review AND a CDP hearing, suspend the CDP hearing until the IRC 7429 administrative and judicial review concludes.
- (8) If the jeopardy levy is found to be unreasonable in the IRC 7429 review, the jeopardy levy will be released (IRC 7429(b)(4)) or the collected tax will be returned to the taxpayer.
- (9) Generally, collection is suspended during a pending CDP hearing. Jeopardy levied property should not be sold until Appeals has made its final determination and the 90 day period during which the taxpayer may appeal a final determination has expired. IRC 6330(e)(1).
- (10) If the taxpayer requests that jeopardy levied property be sold, the property must be sold within 60 days of the request to sell unless it is determined (and the taxpayer is notified within the 60 day period) that sale of the property is not in the government's best interest per IRC 6335(f). Sale of a taxpayer's property

pursuant to such a request is not suspended by the CDP hearing. If a taxpayer makes a request that meets the requirements of IRC 6335(f):

- a. Offer the taxpayer the option to withdraw the CDP so the case can be returned to Collection to proceed with the sale as requested.
- b. If the taxpayer declines to withdraw, issue the taxpayer a letter within 60 days of the request to sell, stating that sale of the property is not in the best interests of the United States.

- (11) A taxpayer may also appeal the jeopardy levy under the Collection Appeals Program (CAP) in limited circumstances.
- (12) If the taxpayer petitions the Tax Court from the notice of deficiency after a jeopardy/termination assessment and also requests a CDP hearing after a jeopardy levy is made to collect the jeopardy/termination assessment, suspend the CDP hearing until the Tax Court decision becomes final.

Note: A Tax Court decision does not become final until the time period for seeking review by a federal court of appeals has expired or all appellate review has been completed. See IRC 7481. In the event a taxpayer seeks court of appeals review of the Tax Court deficiency decision, there may be circumstances in which Appeals may resume the CDP hearing and issue a notice of determination. Consult with Area Counsel.

8.22.6.3.2
(11-05-2013)

State Income Tax Levy Program (SITLP)

- (1) The State Income Tax Levy Program (SITLP) is an automated levy program that attaches state income tax refunds.
- (2) If the levy is the first levy made with respect to a particular tax and tax period and no CDP 6330 notice was previously issued, a post levy CDP notice is issued, giving the taxpayer an opportunity for a CDP hearing.

8.22.6.3.3
(08-26-2020)

Disqualified Employment Tax Levy (DETL)

- (1) With a Disqualified Employment Tax Levy (DETL), Collection may choose to levy and then issue a post-levy CDP notice. A tax period may be collected by a DETL if the following requirements are met:
 - a. There is an employment tax liability for any tax period
 - b. The taxpayer or its predecessor previously requested a CDP levy hearing relating to employment taxes
 - c. The prior CDP hearing request involved unpaid employment taxes that arose in the two-year period before the period for which the levy is served
- (2) Collection processes post-levy CDP hearing requests to Appeals in the same manner as pre-levy CDP hearing requests.
- (3) A DETL levy may be served during a timely requested pre- or post-levy CDP hearing or judicial review of such hearing to collect employment tax liabilities (DETL tax periods) subject to the hearing. The revenue officer checks IDRS for actions that may prohibit levy action, i.e., TC 480 or TC 971 AC 043. Finding none, the Collection Group Manager contacts the hearing officer's ATM by secure e-mail to advise levy action is planned and asks whether Appeals has information that may affect the decision to levy. The ATM responds within 5 days with yes or no response:

- Yes, Appeals has information that levy would create an economic hardship
Note: Economic hardship only applies to individual taxpayers liable for employment taxes.
 - Yes, Appeals has information that would prohibit levy action absent a determination that collection of the tax is in jeopardy
 - No, Appeals has no information that would prohibit levy action
- (4) If a levy is served to collect the liability for DETL periods:
- The taxpayer has CAP rights regarding the DETL
 - The Appeals hearing officer could determine in the CDP hearing that the tax period levied is not a DETL period and direct Collection to release the levy. See the table at (6) below
- (5) In a DETL post-levy CDP hearing, you must verify whether the levied periods met DETL requirements. See the tables below:

To Verify...	Look at...
There is an employment tax liability for any tax period	Confirm the levy was for employment taxes, which include: <ul style="list-style-type: none"> • Form 940, Employer’s Annual Federal Unemployment (FUTA) Tax Return, (MFT 10) • Form 941, Employer’s QUARTERLY Federal Tax Return, (MFT 01) • Form 943, Employer’s ANNUAL Tax Return for Agricultural Employees, (MFT 11) • Form 944, Employer’s Annual Federal Tax Return, (MFT 14) • Form 945, Annual Return of Withheld Federal Income Tax, (MFT 16) • Form CT-1, Employer’s Annual Railroad Retirement Tax Return, (MFT 09)

To Verify...	Look at...
The levy is for taxes owed by a taxpayer or a predecessor who previously requested a CDP levy hearing.	A “prior” request refers to a timely, processable CDP levy hearing request and includes: <ul style="list-style-type: none"> • Timely request withdrawn in Collection or Appeals. • Post-levy request for a CDP hearing made in response to a post-levy CDP notice Letter 1058-D, Post Levy Collection Due Process (CDP) Notice, such as for a state refund or jeopardy levy. A “prior” request does not include: <ul style="list-style-type: none"> • An equivalent hearing levy request. • An untimely CDP levy hearing request that was not treated as a request for an equivalent hearing.
	To identify a prior timely CDP levy hearing request, look at: <ol style="list-style-type: none"> a. ACDS case summary card for prior DPLV and DPL2 hearing. b. IDRS command code TXMODA - Look for TC 971 AC 630, which shows the taxpayer made a CDP levy hearing request for that module.
	To verify whether a business is a predecessor business for the purpose of IRC 6330(h), see IRM 5.11.1.5.3, Predecessor Determination.

To Verify...	Look at...
The prior timely CDP hearing request included at least one unpaid employment tax period that ended during the two-year period before the period to be levied	<p>The two-year look-back period is measured from the beginning of the DETL tax period. If the taxpayer requested a CDP levy hearing for employment taxes that arose during the two-year look-back period, the period qualifies for a DETL.</p> <p>Example: The taxpayer owes for employment taxes for 12/31/2018. A CDP Levy Notice listing this liability was issued and the taxpayer timely requested a CDP levy hearing. The taxpayer pyramids for 6/30/2019. This new liability qualifies for a DETL because the taxpayer requested a prior levy hearing for the 12/31/2018 liability arising during a quarter that ended within the two-year look-back period of the quarter to be levied via DETL (04/01/2019 back two years).</p>

- (6) Collection must issue a post-levy CDP notice (Letter 1058-D) within 10 days after issuing the DETL. The notice must be:

- Given to the taxpayer in person;
- 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

Note: The post-levy CDP notice is not required to be sent with return receipt requested.

- (7) If you determine **none** of the periods qualify for the DETL, take the following actions:

Step	Action
1	<p>Notify the revenue officer by encrypted e-mail (with a "cc" to the revenue officer's group manager) to immediately release the levy. Identify the taxpayer in the e-mail with the following information:</p> <ul style="list-style-type: none"> • Name of taxpayer/TIN • Date of DETL • Date of post-levy DETL CDP notice (Letter 1058-D)
2	<p>Choose the applicable explanation why the period(s) do not qualify for the DETL from the following list:</p> <ol style="list-style-type: none"> a. "Type of tax" is not employment tax b. Taxpayer or the taxpayer's predecessor did not request a prior, timely, CDP levy hearing c. Prior timely, CDP Levy hearing request did not involve any employment tax period ending within the two-year look-back period d. CP 504/Status 58 notice not issued prior to DETL levy e. Period on the prior, timely hearing request that ends within the two-year look back period was not listed on a prior pre- or post-levy CDP Levy Notice (Letter 1058/ Letter 1058-D)

Step	Action
3	End the e-mail with the following paragraph: “ You must immediately release the Disqualified Employment Tax Levy. If you would like to discuss this, I must invite the taxpayer or the authorized representative to participate in the discussion to avoid prohibited ex parte communication. Appeals will hold a pre-levy CDP hearing on the following period(s) released from the DETL: MFT/tax period(s).”
4	Treat the post-levy CDP Letter 1058-D as a pre-levy CDP Notice and follow established procedures in scheduling a pre-levy conference.
5	If the taxpayer brings to Appeals’ attention that the Service received (or will receive) specific property or funds from the illegal DETL a. Ask the taxpayer if he/she wants the levied property or funds returned. If the taxpayer requests return of the wrongfully levied property (and IRC 6343 permits such return), instruct Collection to take the necessary steps to return the levied property or funds in the “Remarks” section of the CDP Form 5402. Reminder: Money may not be returned if the request for its return is made more than two years after the levy takes place. See IRC 6343(b)(3). b. Document the taxpayer’s decision regarding any levied property or funds in the case activity record.

(8) If you determine **some but not all** of the periods do not qualify for the DETL, take the following actions:

Step	Action
1	Notify the revenue officer by encrypted e-mail (with a “cc” to the revenue officer’s group manager) to immediately issue a <i>partial</i> release of the levy, releasing all of the non-DETL periods and then follow Steps 1 - 3 in the table in paragraph (5) above.
2	Treat the post-levy CDP Notice Letter 1058-D as a pre-levy CDP Notice for the period(s) that does not qualify for DETL and follow established procedures in scheduling a conference.
3	If the taxpayer brings to Appeals’ attention that the Service received (or will receive) specific property or funds from the DETL that will exceed the amount due on the actual DETL period(s): a. Ask the taxpayer if he/she wants the wrongfully levied property or funds returned. If the taxpayer requests return of the wrongfully levied property (and IRC 6343 permits such return), instruct Collection to take the necessary steps to return any levied property or funds in excess of what’s owed on the DETL period(s) in the “Remarks” section of the CDP Form 5402. Reminder: Money may not be returned if the request for its return is made more than two years after the levy takes place. See IRC 6343(b)(3) . b. Document the taxpayer’s decision regarding any levied property or funds in the case activity record.

(9) If the taxpayer’s post-levy CDP hearing request lists a tax period not on Letter 1058-D, the period may have been listed on a prior CDP levy notice. Verify this by checking IDRS command code TXMODA for a TC 971 AC 069. If the taxpayer was issued a prior CDP levy notice, the taxpayer may not be entitled to a CDP hearing for that period, but may qualify for an equivalent hearing.

Collection is responsible to work with the taxpayer to perfect the hearing request per IRM 5.1.9.3.2.3, Perfection of Hearing Requests, (field), IRM 5.19.8.4.2.2, Perfection of Timely CDP Hearing Requests, (ACS), and IRM 5.19.8.4.3.2, Perfection of Timely Equivalent Hearing Requests, (ACS). Follow the above instructions in IRM 8.22.5.2.4, Premature Referrals, regarding the non-Letter 1058-D period.

- (10) At the conclusion of the CDP hearing, the verification of legal and administrative requirements in the ACM/attachment should include your finding as to whether the levy properly preceded the CDP notice.

8.22.6.3.4
(11-05-2013)
Levy on a Federal contractor (FEDCON)

- (1) The Federal Payment Levy Program (FPLP) is an automated levy program implemented with the Department of the Treasury, Financial Management Service (FMS).
- (2) For federal payments other than Social Security or Railroad Retirement Board (RRB) benefit payments, FPLP may issue a FEDCON levy to FMS to collect federal tax debts owed by Federal contractors. If the levy is the first levy made with respect to a particular tax and tax period, a post-levy CDP notice is issued, giving the taxpayer an opportunity for a CDP hearing. See IRM 5.11.7.2, Federal Payment Levy Program.

8.22.6.4
(08-26-2020)
International Cases (IC)

- (1) International tax issues arise from overseas and cross-border activities of U.S. businesses and individuals as well as U.S. activities of foreign businesses and individuals. The definition of International issues, including coordinated, non-coordinated, and emerging issues can be found on the Appeals International website located at <http://appeals.web.irs.gov/intl/default.htm>.
- (2) Input Feature Code "IC" (International Case) to ACDS when a CDP has an international tax issue.
- (3) Examination International tax issues generally require a referral to the Appeals Team Managers of the International Technical Specialist groups found on the Appeals International web page. See IRM 8.22.8.6.1, Referring a Liability Issue, for instructions on referring the international tax issue to an Exam AO for consideration.
- (4) Form 13381, Appeals Technical Guidance/International Referral is:
- Used when the international tax issue requires only a telephonic or secure e-mail consultation with International Operations
 - Not used when a liability WUNO is established under IRM 8.22.8.6.1, Referring a Liability Issue, and referred to an International Exam AO Team for consideration
- (5) Form 13381 resources are found on the International website <http://appeals.web.irs.gov/intl/default.htm> including:
- ACDS Form 13381 desk guide under the RESOURCES tab
 - A link out to Form 13381 under the REFERRALS tab
 - Where to send the referral under the REFERRALS tab
- (6) International cases with collection related issues should be assigned to the Collection Appeals group with responsibility for working such cases. Proposed case transfers should be coordinated through that team's ATM. Locate the

ATM's contact information via the link that is located on the Appeals intranet page following *Collection > Resources > Appeals International Collection Issues Group*.

8.22.6.5
(03-29-2012)
Partnership Liability

- (1) Under state law, general partners in partnerships are liable for taxes assessed against the partnership. In *United States v. Galletti*, 541 U.S. 114 (2004), the Supreme Court held the Service's assessment against a partnership serves to make the general partner liable for the tax. While the Supreme Court did not address administrative collection, *Galletti* is consistent with the Service's long-standing legal position that it can enforce a tax lien and take administrative levy action against a general partner based on the assessment and notice and demand directed to the partnership. See Chief Counsel Notice 2005-003 at <http://www.irs.gov/pub/irs-ccdm/cc-2005-003.pdf>
- (2) A partner's individual CDP hearing request:
 - Affects Collection's ability to collect from that partner's individual assets
 - Does not affect Collection's ability to collect from the partnership or other individual partners' assets

8.22.6.6
(11-05-2013)
Limited Liability Companies (LLCs)

- (1) Collection must identify the liable taxpayer prior to issuing a CDP notice so that the correct entity is notified of their right to a CDP hearing. IRM 5.1.21, Collecting From Limited Liability Companies (LLCs), contains guidance for Collection employees including IRM 5.1.21.14, Identification of Liable Taxpayer, and IRM 5.1.21.6.1, Collection Due Process Notice.
- (2) The liable taxpayer is either the:
 - **LLC:** When the LLC is the taxpayer, the assessment is made against the LLC and the notice and demand and the CDP notice are issued in the name of the LLC and the LLC has the right to a CDP hearing; or
 - **SMO:** When the Single Member Owner (SMO) is the taxpayer, the assessment is made against the SMO and the notice and demand and the CDP notice are issued in the name of the SMO and the SMO has the right to a CDP hearing
- (3) Appeals must verify whether Collection properly assessed the correct person or entity and properly issued the notice and demand and the CDP notice to the liable taxpayer as part of the Legal and Administrative analysis. This is done by reviewing:
 - ICS history to see how the revenue officer documented the basis of their liable taxpayer determination
 - IDRS transcripts for command code BMFOLE to confirm the liable taxpayer:

When...	Look at BMFOLE to see...
the liability is employment taxes on wages paid before January 1, 2009	<ul style="list-style-type: none"> If the LLC elected to be classified as an association taxable as a corporation, the LLC is the taxpayer If the LLC did not elect to be classified as an association taxable as a corporation, the liable taxpayer is dependent on whether the LLC has one member or more than one member
LLC established on or after January 1, 2009	<p>The LLC indicator denotes whether the LLC had one member or more than one member when it was established:</p> <ul style="list-style-type: none"> "S" for a single member "M" for a multi-member A blank indicates entity was not identified as an LLC, or it was established prior to January 1, 2009

- (4) The liable taxpayer is sometimes identified in TXMOD with Transaction Code (TC) 971 and an Action Code (AC) shown below:

Action Code	Explanation
364	LLC is the liable taxpayer for this tax period
365	Single member is the liable taxpayer for this tax period
366	Liable taxpayer changed during this tax period

- (5) The table below reflects Part 5 IRM sections containing LLC instructions Collection must follow when deciding how to list the taxpayer's name on the notice of lien or levy and whom to notify of CDP rights:

Action	IRM Section
Levy - Field	IRM 5.11.1
Levy - ACS	IRM 5.19.4
Lien - Field	IRM 5.12.2.
Lien - ACS	IRM 5.19.4

- (6) A disregarded SMO LLC is carded-in on ACDS as the case appears on IDRS. **The information on ACDS must match IDRS.**
- (7) If you determine the LLC entity is a disregarded single owner, prepare the ACDS update form and request that APS:
- Add the single-owner name to the name line of the ACDS entity section **BEHIND** the LLC name

Example: xxxxx LLC, xxx xxxxx, owner

- b. Add the single-owner TIN (SSN or EIN) to the TIN2 field
- (8) A request for a CDP hearing that lists the SMO's name and the LLC's EIN but not the single owner's TIN is not valid. The taxpayer is required to include an identifying number in the written CDP hearing request. Thus, if a single owner of a disregarded LLC fails to include his/her TIN and lists only the LLC's EIN, then the CDP hearing request is not perfected. If a CDP is referred to Appeals without required TIN information, attempt to obtain it from internal sources - IRM 8.22.5.2.3, Imperfect Hearing Requests. If you cannot locate the TIN from internal sources, return the request as a premature referral.
- (9) If the CDP notice was not properly issued to the liable taxpayer, return the request to Collection as a premature referral. Not properly issued includes:
- The CDP notice was not issued to the liable taxpayer
 - The name of the liable taxpayer was not included on the original CDP notice
 - The CDP notice was not sent to the liable taxpayer's last known address
- (10) A review of IDRS is generally all that is required to verify a CDP notice was properly issued to the liable taxpayer. However, it is possible for an LLC to change without notice to the IRS. If the L & A verification confirms the CDP notice was properly issued but the taxpayer claims collection action is directed at a person or entity who is not liable, (e.g. the assessment was made against the wrong person or entity, the notices (including notice and demand) were issued to the wrong person or entity) the taxpayer should be asked to document that claim. This issue can be complex as both State law and Treas. Regs. can factor in. Refer to IRM 5.1.21,, Collecting From Limited Liability Companies (LLCs), and if in doubt, consult with Area Counsel.

8.22.6.7
(03-29-2012)
Disaster Relief

- (1) Add ACDS feature code "DR" to cases that qualify for disaster relief.
- (2) Special tax law provisions may grant additional time to file returns and pay taxes as a means to help taxpayers recover financially from the impact of a disaster, especially when the federal government declares their location to be a major disaster area.
- (3) Appeals follows the Disaster Relief Memorandums issued by the Director, Communications, Liaison and Disclosure (CLD), when dealing with taxpayers in a disaster-covered area. Disaster Relief Memorandums are available at: <http://www.icce.irs.gov/fema/>
- (4) Disaster Relief IRM guidance for Appeals is found at:
- IRM 8.7.1.10, Disaster Relief Cases, and
 - IRM 25.16, Disaster Assistance and Emergency Relief

8.22.6.8
(08-26-2020)
Bankruptcy

- (1) If a taxpayer files bankruptcy after filing for a CDP or EH hearing:
- Suspend the CDP case by inputting SU/PI and E/BNK to the Case Activity Record (CAR).
 - Do not issue a Notice of Determination or Decision Letter
 - Do not request a Form 12256, Withdrawal or Form 12257, Summary Notice of Determination

- (2) If there is an open OIC case related to the CDP, close the OIC WUNO as a return using cc 20. Send a standalone Letter 5010 to convey the OIC disposition to the taxpayer.

Note: Notate on Form 5402 “Remarks” to APS that the letter was sent to the taxpayer returning the OIC and to reassign the OIC back to “Collection AO” in AOIC.

- (3) There are certain actions that should be taken on CDP/EH cases with a bankruptcy proceeding which do not violate the automatic stay. See IRM 8.7.6.2, Appeals Bankruptcy Cases, Collection Due Process Cases, for a discussion of the following:
- a. Verification of the bankruptcy filing
 - b. Suspending the CDP proceeding
 - c. Monitoring and reactivating a suspended case
 - d. Determining if the automatic stay has lifted
 - e. Resuming the CDP process
- (4) If a Notice of Determination or Decision Letter was issued on an open bankruptcy case, alert Area Counsel as the notice may be void.
- (5) 11 U.S.C. 362(a)(8) prohibits the commencement or continuation of a Tax Court proceeding concerning:
- A corporate debtor’s tax liability for a taxable period the bankruptcy court may determine (generally, a taxable period that ends before the plan confirmation date), and
 - An individual debtor’s tax liability for a taxable period ending before the bankruptcy petition date (i.e., pre-petition tax liabilities).

If a Notice of Determination is issued and the taxpayer subsequently files a bankruptcy petition during the suspense period, the time the taxpayer has to file a Tax Court petition is tolled. See IRM 8.22.9.15.1 , Deadline to Petition Tax Court, for determining the time the taxpayer has to file a Tax Court petition after termination of the automatic stay.

- (6) A prior bankruptcy may constitute a prior opportunity for a hearing on the liability if the same tax periods are later involved in CDP. Consult with Area Counsel to examine the facts of the bankruptcy case and determine whether the taxpayer had an actual opportunity to contest the liability in the bankruptcy. For example:
- If a request for 11 U.S.C. 505(a)(1) determination of liability was granted or an objection to the Service’s proof of claim was filed in an individual Chapter 11 or 13 case, or a non-individual Chapter 11 case in which the taxpayer was debtor-in-possession, then liability for the tax is generally precluded from consideration in a later proceeding. However, if there was no bankruptcy court consideration of the liability, Appeals cannot conclude that the taxpayer could have disputed the liability during the court proceeding without considering the facts of the case
 - A taxpayer cannot invoke a bankruptcy court’s jurisdiction to determine a tax liability in a Chapter 7 bankruptcy in which all assets of the estate were exempt
 - A bankruptcy court may abstain from considering a tax dispute that can be considered in another forum, such as Tax Court

- (7) Consult with local Counsel for issues involving a Receivership, Assignment for the Benefit of Creditors, or other insolvencies. Similar to bankruptcy, in these cases, a determination should be made whether or not to suspend the CDP under these circumstances. See also IRM 5.9.20, Non-Bankruptcy Insolvencies.

8.22.6.9
(08-09-2017)
**Cases Controlled by
Department of Justice
(DOJ)**

- (1) DOJ has the sole authority to settle or otherwise compromise liabilities in the following situations:

Issue	IDRS Indicator:
Suit to enforce a federal tax lien	TC 520 cc 70
Suit to reduce a claim to judgment	TC 520 cc 80
Tax liability reduced to a judgment	TC 550 with definer code 04
Tax liability assigned to Criminal Investigation	TC 910 Note: Contact the appropriate Collection Technical Services Advisory (see the Collection Advisory Contact List link in the Resources section of the Appeals CDP web page, or Pub 4235, Collection Advisory Group Numbers and Addresses) to verify whether restitution was ordered. If restitution was ordered, the tax period may be under DOJ control. If the liability is subject to a criminal prosecution and the taxpayer has not completed his or her sentence, DOJ may have control over the liability in the absence of a restitution order. Check with Area Counsel.

- (2) When you discover tax periods with DOJ controls, determine the status and issues in the suit, and contact Area Counsel for guidance. If Counsel believes continuing the CDP hearing could adversely affect the ongoing litigation, Counsel will ask you to suspend the CDP hearing. Input 'SU/PI' in the CAR to place the case in 'E/OTH' status

Note: If Appeals is recommending acceptance of a doubt as to collectability offer with DOJ referred tax periods, DOJ concurrence is required. Ask Area Counsel to share your OIC recommendation with DOJ for their review. See IRM 8.22.7.10.10, Offers with Department of Justice (DOJ) Controlled Tax Periods, for guidance.

Note: If **all** periods being compromised are DOJ referred tax periods, the offer is not processable. See IRM 5.8.2.4.1, Determining Processability.

- (3) The table below provides instructions for DOJ controlled cases:

IF...	THEN...
Counsel determines conducting the hearing will not adversely affect the ongoing litigation	Appeals may proceed with those issues that are not part of the suit (e.g., compliance with all legal and administrative requirements with respect to the lien or proposed levy). Advise the taxpayer of any issue over which Appeals does not have jurisdiction to consider
A CDP hearing is held while a suit involving the same liability is pending with DOJ	Appeals does not have the jurisdiction to consider any issue that is part of the suit (such as the existence or amount of the tax liability)
A case is referred to DOJ for defense or prosecution	Only DOJ has the authority to settle the case, including an OIC
An OIC or settlement proposal for a DOJ case is submitted to Appeals	Share the proposal with DOJ for its consideration
DOJ has referred a judgment to IRS for collection	DOJ approval is not required for Appeals to enter into an IA that provides for full payment of the liability

- (4) If a taxpayer has not raised any issues over which Appeals has jurisdiction:

Step	Action
1	Schedule a conference and explain why Appeals is not able to consider the issues raised
2	Request a withdrawal if the taxpayer has no other issues that Appeals may consider. See IRM 8.22.5.2.5, CDP Withdrawals
3	If the taxpayer does not withdraw, verify compliance with all legal and administrative requirements and issue the Notice of Determination/ Decision Letter, noting the issues raised and whether Appeals had jurisdiction to consider those issues

8.22.6.9.1
(08-26-2020)
**Restitution-Based
Assessments (RBA)**

- (1) In a criminal tax case, the court may require a defendant to pay the losses incurred by the Government. IRC 6201(a)(4) provides that the Secretary shall assess and collect the amount of restitution under an order pursuant to section 3556 of title 18, United States Code, for failure to pay any tax imposed under this title in the same manner as if such amount were tax. RBAs may also be referred to as criminal restitution assessments. DOJ has sole authority over a restitution **judgment**. See IRM 5.1.5.15.7, Restitution Debt, for the differences between a restitution judgment and a restitution-based assessment.

- (2) The IRS may take administrative collection actions under the Internal Revenue Code to collect a restitution-based **assessment**. A taxpayer may not challenge the amount of the restitution-based assessment but may seek review of collection actions under CDP. See IRM 5.1.5.15.3, Restitution-Based Assessments.
- (3) When restitution is ordered by a federal district court in a tax case, the restitution amount is based on the estimated tax loss to the government. This restitution amount may include tax, Title 26 interest and Title 26 penalties through a certain date (typically the sentencing date), and cannot be challenged in a subsequent civil administrative or judicial proceeding. In determining how to handle a review of interest and penalties on an RBA in a CDP or equivalent hearing, you will have to submit a secure e-mail inquiry to [*SBSE TECH SVS Criminal Restitution](#) to determine whether the amount of restitution ordered included Title 26 interest and/or penalties. The restitution portion of the court's Judgment and Commitment Order may provide for payment of additional Title 18 fines and interest (which are not assessable or collected by the IRS), or may waive Title 18 interest, but it will generally not state if the amount of restitution includes Title 26 interest and/or penalties.
- (4) Appeals should have any additional Title 26 interest and/or penalty additions on the RBA abated if the total amount of restitution ordered did not include Title 26 interest and penalties. Examination Technical Services, Criminal Restitution Coordinators Group, has exclusive responsibility for correcting RBA accounts. See also, IRM 4.8.6.2.2.3.3, Fixing Restitution-Based Assessment Module, and IRM 5.1.5.18.8, Adjustments to Restitution-Based Assessments (RBA)
- (5) Follow the step chart below:

Step Number	Who	Action
1	AO	Identifies a CDP or EH case including RBA liabilities. See IRM 8.7.1.11.3, Identifying Restitution-Based Assessments on IDRS, for assistance in identifying an RBA liability. In ACDS, apply feature code "RB" to any cases that include one or more restitution based assessments.
2	AO	Submits a secure e-mail inquiry to *SBSE TECH SVS Criminal Restitution , asking if the Title 26 interest and/or penalties were included in the amount of restitution ordered by a judge. The AO should also request a copy of Form 14104, Notification of Court Ordered Criminal Restitution Payable to IRS and Judgment & Commitment Order, if available, and any other documentation associated with the interest and penalties.

3	SB/SE	<p>Determines whether any Title 26 interest and/or penalties were included in the amount of restitution ordered, and:</p> <ul style="list-style-type: none"> • If it was included in the amount of restitution ordered, SB/SE will send the AO a copy of the Form 14104 and any other pertinent documentation within approximately 15 business days of receipt of the request from the AO. In this case, the amount of title 26 interest and/or penalties that were included in the amount of restitution ordered and were assessed as part of the RBA will not be abated. • If any RBA amounts were not included in the amount ordered by a judge, SB/SE will send notification of this information to the AO, along with a copy of the Form 3870, within 15 business days of SB/SE's receipt of the request from the AO. SB/SE is responsible for any abatements, which may take up to 30 days to post. <p>Note: Unpostable transactions may be reported to Tech Services via secure e-mail at <u>*SBSE TECH SVS Criminal Restitution</u>.</p>
4	AO	<p>In the Form 12257 narrative, NOD, or Decision Letter, includes a specific statement that includes the following language:</p> <ul style="list-style-type: none"> • Any additional Title 26 interest and/or penalty additions on the restitution-based assessment is being abated if the total amount of restitution ordered did not include Title 26 interest and penalties. Further Title 26 interest and/or penalties will not accrue on the restitution-based assessment. <p>Note: To facilitate timely case closure, prior to the posting of the abatement transaction, the AO may close the case after confirming an IDRS pending transaction that the abatement transaction was input.</p>

8.22.6.10
(08-26-2020)
**Criminal Investigation
(CI) Indicators**

- (1) IDRS may confirm an IRS Criminal Investigation Division (CI) investigation. See the table below for CI indicators in IDRS:

CI Indicator	Indicates	Action Required
TC 914 (-Z)	an active criminal investigation	Contact the special agent assigned the investigation of the CDP request. They will advise whether you may proceed with the CDP hearing or suspend it by placing it in 'E/OTH' status pending the outcome of the criminal investigation.
TC 916 (Z-)	a refund scheme on some modules	Contact the Questionable Refund Detection Team (QRDT) located in the campus that input the TC 916 (identifiable by the first two digits of the Document Locator Number (DLN) associated with the TC 916). Inform them of the CDP hearing. They will advise whether you may proceed with the CDP hearing or suspend it by placing it in 'E/OTH' status pending the outcome of the criminal investigation.
TC 918 (Z-)	a refund scheme freeze in all modules.	Contact the QRDT located in the campus that input the TC 918 (identifiable by the first two digits of the DLN associated with the TC 918). Inform them of the CDP hearing request. They will advise whether you may proceed with the CDP hearing or suspend the case by placing it in 'E/OTH' status pending the outcome of the criminal investigation.

- (2) Request the name and contact information for the CI Special Agent assigned to your case through the CI contact whose name is listed on the CDP intranet page following *Appeals > Collection > Collection Due Process > Resources > CI Case Assignments*.
- (3) A 120 day follow-up is appropriate on CI cases unless the special agent states a different time frame for follow-up.

8.22.6.11
(08-26-2020)
Decedent

- (1) A CDP hearing involves a decedent when:
- A taxpayer's estate requests a hearing, or
 - A taxpayer dies after requesting a CDP hearing
- (2) If a taxpayer dies after requesting a CDP hearing, the request is still valid. However, any Form 2848, Power of Attorney, terminates by operation of law. Obtain a copy of the executor's or administrator's appointment to act on behalf of the estate and ask if they wish to continue the CDP hearing. Then consult the table below:

IF...	THEN...
The executor or administrator does not wish to continue with the hearing	Request a Form 12256 and, if received, close the case.

IF...	THEN...
The executor or administrator wishes to continue with the hearing	<ol style="list-style-type: none"> 1. Schedule a conference to consider non-collection issues. For instance, the executor or administrator may raise liability or a spousal defense issue. Note: Contact Counsel to determine if assets are under control of a probate court. Probate assets are not under the control of a probate court in every probate proceeding. 2. Advise that Appeals cannot consider a collection proposals from probate assets if the assets are under the control of a probate court but can consider proposals from non-probate assets. 3. At the conclusion of the hearing, issue a Notice of Determination/ Decision noting the issues raised, whether Appeals had jurisdiction to consider those issues and what you decided.
The liability is satisfied via the proof of claim filed with the probate court during the hearing and no other issues were raised	Request a Form 12256 or issue a Notice of Determination/Decision Letter.

- (3) Refer to IRM 21.3.3, Taxpayer Contacts - Incoming and Outgoing Correspondence/Letters, for how to address correspondence and forms for decedent cases.
- (4) The IRS may not levy on probate assets without permission of the probate court. If Appeals is unable to reach an alternative to collection in such a case, the determination/decision may state that levy is sustained but not against assets in the custody of the court, absent permission from the court.
- (5) If there is no requirement for probate, the personal representative or any successor in interest (e.g., spouse, trustee, surviving joint tenant, etc.) MAY be authorized to sign on behalf of the estate. Confirm there is no requirement for probate and that either the successor in interest is appointed personal representative under the decedent's will or the successor in interest otherwise qualifies. If the successor in interest is not willing to sign the withdrawal or continue the CDP hearing, issue the Notice of Determination/Decision Letter based on the available information.
- (6) When calculating an estate's Reasonable Collection Potential (RCP) in an offer in compromise, Collection may need to value an asset that was previously listed on the estate tax return. If the taxpayer disputes Collection's valuation,

you will need to determine the value of the asset. A starting point for your analysis should be the value listed on the estate tax return, the value determined by Collection, or the value determined by the Tax Court in an estate tax deficiency case following the IRS’s examination of the return. For estate tax purposes, assets are valued as of the date of death. In calculating the RCP, Collection should have determined whether the value of the asset has increased, remained the same, or decreased since the valuation for estate tax purposes. If the taxpayer has provided additional or new information in Appeals, consider whether issuing an Appeals Referral Investigation (ARI) is necessary to determine an asset value. Refer to IRM 8.22.7.4 and its subsections for guidance on ARIs. Explain your determination of the asset’s value in the Notice of Determination.

- (7) Contact local Area Counsel with any questions concerning local law on probate.

8.22.6.12
(11-05-2013)
**Combat Zone (CZ)
Indicators**

- (1) Combat Zone (CZ) accounts are identified by a -C freeze, which indicates a taxpayer is or was serving in a designated combat zone area.

Note: The -C freeze stays on the account even after the taxpayer is no longer in the CZ.

- (2) When working an account with a –C freeze, additional research is required to determine the taxpayer’s CZ status. Research CC IMFOLE for the Combat indicator on Line 11. See the table below:

If ...	Then...
Combat indicator is 1	the taxpayer is serving in a combat zone. Contact the taxpayer or his/her representative and ask if he/she wants to proceed with the CDP hearing or postpone it per IRC 7508. If the taxpayer elects to postpone or does not respond, suspend the case in ACDS as 'E/OTH'. Follow-up to determine when collection is no longer suspended and the CDP hearing can proceed.
Combat indicator is 2	the taxpayer is no longer a combat zone participant. Proceed with the hearing.

8.22.6.13
(03-29-2012)
**Military Members and
Military Spouse
Deferments**

- (1) Members of the United States armed forces and their spouses may be eligible for certain deferments under:

- The Service members Civil Relief Act
- The Military Spouses Residency Relief Act

- (2) Review the following IRM sections for information and eligibility:

- a. IRM 5.1.7.12, Collecting Process, Field Collection Procedures, Military Deferments
- b. IRM 5.19.1.5.9, Collecting Process, Liability Collection, Military Deferments, (ACS)

- c. IRM 20.2.7.12, Interest, Abatement and Suspension of Debit Interest, Military Deferrals
- d. IRM 21.8.1.5.7, Customer Account Services, International, Military Spouses Residency Relief Act

8.22.6.14
(08-26-2020)

Related Cases Pending in Litigation

- (1) A taxpayer may have a pending matter in Tax Court, or in the jurisdiction of another court, for one or more tax periods that are not a part of your CDP or EH case. This may happen when the taxpayer is litigating:
 - a. a prior CDP determination,
 - b. an Examination deficiency assessment, **or**
 - c. PENAP or other appeal.
- (2) A taxpayer or representative may request that the current CDP case be suspended pending the outcome of the litigated matter. It is generally **not** required to suspend work on the current CDP or EH case for this reason, however, it may be prudent to do so in certain circumstances. On a case-by-case basis, the AO should consult with their ATM and, if necessary, IRS Counsel, about how to proceed in such cases.

Note: Where the Department of Justice (DOJ) has jurisdiction over a particular matter, contact DOJ before maintain or suspending work.

8.22.6.15
(08-26-2020)

Related Periods Assigned to a Private Collection Agency (PCA)

- (1) IRC 6306 authorizes the IRS to enter into certain qualified tax collection contracts with a PCA for certain “inactive tax receivables”.
- (2) The IRS establishes the criteria by which these specific debts are to be assigned to a PCA.
- (3) There are certain statutory exclusions in place that will prevent assignment of a debt by the IRS to a PCA. These exclusions include when a taxpayer is:
 - deceased
 - under the age of 18
 - in a designated combat zone
 - a victim of a tax-related identity theft
 - currently under examination, litigation, criminal investigation or levy
 - subject to a pending or active offer in compromise or installment agreement
 - subject to a statutory right of appeal
 - classified as an innocent spouse case, or
 - requesting relief from collection while in a presidentially declared disaster area
- (4) Cases assigned to a PCA and which subsequently meet any of the above criteria will be returned to the IRS.
- (5) IRC 6320 and 6330 are statutory appeal rights giving Appeals broad authority to resolve any relevant issue raised by the taxpayer, including resolutions that include all CDP and non-CDP liabilities such as installment agreements and offers in compromise.
- (6) When you are assigned a CDP or EH case with related liabilities that are outside of CDP and assigned to a PCA, but the liabilities need to be included in the overall resolution of the case, the taxpayer should contact their assigned

PCA, in writing, informing them that they no longer wish to work with the PCA and that the debts should be recalled to IRS. The PCA will honor the request under the *Fair Debt Collection Practices Act*.

- (7) See also IRM 5.19.1.5.21, Private Debt Collection, and its related subsections.

8.22.6.16
(08-26-2020)
**Cases with Passport
Revocation**

- (1) When Appeals closes a case that is appropriate for expedited passport decertification, take the following actions:
- The AO should prepare Part 1 of the Form 14794, Expedited Passport Decertification
 - After securing managerial approval on Part 1, both parts 1 and 2 of the Form 14794 should be forwarded to *SBSE Passport Group, via secured e-mail, for the expedited decertification.
 - The e-mail should also contain an explanation of the specific terms of the agreement (IA, etc.) that has caused the decertification. Also include the taxpayer's targeted dates of travel.
 - The SB/SE Passport Group will notify the U.S. State Department.
- (2) For cases where there is no need to expedite the passport decertification process, no action is needed by Appeals, but appropriate closing transactions should be input promptly by APS.
- (3) Passport certification accounts are flagged with TC 971 AC 641, and decertification generally begins once certain qualifying transactions appear on IDRS.
- (4) A TC 972 is systemically input (outside of Appeals) to reverse the TC 971.
- (5) See IRM 5.19.1.5.19, Passport Certification in Case of Certain Tax Debts, and its related subsections.

8.22.6.17
(08-26-2020)
**Posting of a Letter of
Credit or Bond**

- (1) In certain unique circumstances, the taxpayer may request a Letter of Credit (LOC) or posting of a Bond to be used as collateral for their tax debt. Inquire of the taxpayer why they would be able to secure a LOC or Bond yet be unable to obtain credit sufficient to pay the tax liability. If you determine the taxpayer's answers are satisfactory, take the below actions, as applicable.
- (2) For a LOC, prepare and submit an ARI to Advisory. Advisory will consult with Counsel. Submit the ARI via the following website: <http://mysbse.web.irs.gov/collection/ceaso/contacts/19172.aspx>.
- (3) Advisory will review the LOC and, if it meets the necessary requirements, refer it to Counsel.
- (4) If approved by Counsel, the taxpayer will be notified of the approval and Advisory holds the approval letter.
- (5) If not approved, the CDP matter will be resolved in Appeals.
- (6) For Bond requests, refer the taxpayer to Treasury Circular 570 for a list of acceptable bonding agencies. The taxpayer should review and investigate this option fully as the requirements and costs of such an option are generally prohibitive. Treasury Circular 570 is located at the following link: <https://www.fiscal.treasury.gov/surety-bonds/circular-570.html>.

