



IRS Nationwide

TaxForum | 2022

Advocating for Taxpayers Who Receive Collection Notices

Wednesday, July 20th, 2022

Start Time: 11:00am Eastern / 10:00am Central
9:00 am Mountain / 8:00am Pacific

Note: You should be hearing music while waiting for webinar to start.

Having Technical Issues?

View the “Technical Issues” troubleshooting guide in the Materials drop-down menu on the left side of this page



Today our webinar will:

- Identify Internal Revenue Code (IRC) provisions that require the IRS to send notices to taxpayers:
 - To request payment of taxes, or
 - To propose enforced collection action through liens and levies;
- Identify the most common IRS notices or letters that satisfy the statutory notice requirements; and
- Identify the options for responding to these notices.



Statutes Requiring Notices

- IRC § 6303 Notice and Demand for Tax (CP14)
- IRC § 6331(d), Requirement of Notice Before Levy (CP504)
- IRC §§ 6320 and 6330, Final Notice of Intent to Levy (or that a Notice of Federal Tax Lien was filed) and the Right to a Hearing (LT11, Letter 1058, aka CDP notices)
- IRC § 7524 Annual Notice of Tax Delinquency (CP71, CP89)

Collection Notice Stream

Collection Notice Progression

CP14

Balance Due and Demand for Tax Notice

Initial notice



5 weeks



CP501*

Reminder 1st Balance Due Notice

10 weeks



CP503*

Important 2nd Balance Due Notice

15 weeks



CP504 (IMF) / CP504b (BMF)*

Urgent Final Balance Due Notice

Enter ACS

20 weeks



LT11

ACS Intent to Levy Notice

LT1058

Field Intent to Levy Notice

25 weeks



LT16

Request for Taxpayer to Contact ACS

* Including Spanish Equivalent



Notices Suspended

- The IRS suspended some collection notices in Feb. 2022, including CP-501, CP-503, and CP-504. See IR-2022-31.
- Effect of suspension:
 - Automated CDP notices under IRC §§ 6320 and 6330 not issued;
 - Penalty and interest continued to accrue;
 - Refund offsets continued;
 - Case-specific enforcement continued.



Notices Suspended (cont'd)

- See National Taxpayer Advocate blog:
An Overloaded IRS Stops Certain Automated Notices, But Taxpayers Still Need to File Federal Tax Returns and Pay Outstanding Taxes (Mar. 2, 2022).

<https://www.taxpayeradvocate.irs.gov/news/nta-blog-an-overloaded-irs-stops-certain-automated-notices-but-taxpayers-still-need-to-file-federal-tax-returns-and-pay-outstanding-taxes/>



IRC § 6303

Notice and Demand for Tax

- Requires the IRS send a notice and demand letter after it makes an assessment when insufficient funds exist on the account to satisfy the liability (generally Notice CP14).
- The IRS must send this letter within 60 days of assessment.

IRC § 6303

Notice and Demand for Tax (cont'd)

- Under IRC § 6321, if the taxpayer fails to pay after this notice and demand, a lien in favor of the United States attaches to the taxpayer's property or rights to property.
- Failure to send the letter within 60 days of assessment prevents the federal tax lien from automatically coming into existence but does not affect the validity of the assessment or the IRS's authority to collect the tax. See Treas. Reg. § 301.6303-1(a).



Responding to CP14

- Pay, if the taxpayer agrees the tax is owed and is able to pay the liability;
- Contact the IRS to explain why the tax is not owed; or
- Request a collection alternative, discussed below.



IRC § 6331(d)

Requirement of Notice Before Levy

1. In general. Levy may be made under subsection (a) upon the salary or wages or other property of any person with respect to any unpaid tax only after the Secretary has notified such person in writing of his intention to make such levy.
2. Generally satisfied by Notice CP504.

IRC § 6331(d) Requirement of Notice Before Levy (cont'd)

IRC § 6331(d)(2)

30-day requirement - The notice required under paragraph (1) shall be:

- A. Given in person,
- B. Left at the dwelling or usual place of business of such person, or
- C. Sent by certified or registered mail to such person's last known address,
- D. No less than 30 days before the day of the levy.

CP504, Page 1

OTC Sample image 1/2022



Department of the Treasury
Internal Revenue Service

Name
Address
City, State and Zip

For your reference

Notice name CP504 Tax year
 Notice date
 Your caller ID XXXXXXXXX
 Taxpayer ID number
 New quick, easy, and secure online payments
 Visit irs.gov/directpay to avoid additional interest and penalties or time lost on the phone

! Final Balance Due Reminder – Notice of Intent to Seize (Levy) Your Property or Rights to Property

To: Name

As of XX/XX/XXXX, we have not received your overdue tax after sending several notices to you. You must pay your balance immediately or we may levy (seize) your property. If you do not make your payment now, we will consider your noncompliance an active choice and you could face a levy.

Amount Due Immediately: \$

REPLY ONLY

CP504, Page 2

Consequences If You Don't Pay Immediately

- We may **levy your income and bank accounts**, as well as **seize your property or your rights to property** if you fail to comply. Property includes wages and other income, bank accounts, business assets, personal assets (including your car and home), Social Security benefits, Alaska Permanent Fund dividends, or state tax refunds.
- We can **file a Notice of Federal Tax Lien**, notifying your creditors we have a claim (lien) against all your property.
- The U.S. Department of State may **revoke your passport or decline to issue or renew a passport** if you have seriously delinquent tax debt totaling more than \$55,000. For more information, visit www.irs.gov/passports.

Additional Requirements for Levy

- CP504 does NOT satisfy the requirements of IRC § 6330.
- Per IRS Collection Due Process (CDP) FAQs: “The IRS cannot levy with just this notice [CP504]. The IRS must first issue a formal Notice of Intent to Levy and Your Right to a Hearing, which is the next step after this notice.”

<https://www.irs.gov/appeals/collection-due-process-cdp-faqs>

- With CP504, however, the IRS can proceed with certain levies, such as on state income tax refunds, a disqualified employment tax levy, and federal contractor levies (IRC §§ 6330(f), 6331(h)).



Responding to CP504

- Pay, if the taxpayer agrees the tax is owed and is able to pay;
- Contact the IRS to explain why the tax is not owed;
- Request a collection alternative, discussed below; or
- File a Form 9423, Collection Appeals Request, typically to try to avert the filing of a Notice of Federal Tax Lien (it will not avert the issuance of a CDP notice).



IRC §§ 6320 and 6330 – CDP Notices

- Informs taxpayers of the right to request a collection due process hearing with the Independent Office of Appeals if they do so within 30 days of the date shown on the letter.
- Sent certified mail.
- Examples include:
 - LT11, LT75, Letter 1058, Letter 3172
 - CP90, CP91, CP92, CP297, CP77, CP177, CP242



IRC §§ 6320 and 6330 – CDP Notices (cont'd)

- Must be sent 30 days before most levies (but not required prior to a levy on a state income tax refund)
- Must be sent not more than 5 business days after the filing of a Notice of Federal Tax Lien

LT11, Page 1

OTC Sample image 12/2021



Department of the Treasury
Internal Revenue Service

Name
Address
City, State and Zip

For your reference

Notice name	LT11
Notice date	XX/XX/XXXX
Case Reference number	XXXXXXXXXX
Taxpayer ID number	

New quick, easy, and secure online payments
Visit irs.gov/lt11 to avoid interest and applicable penalties or time lost on the phone.

Page 1 of 4

Notice of Intent to Levy and Your Collection Due Process Right to a Hearing

To: Name

As of XX/XX/XXXX, we haven't received your overdue tax after sending several notices to you. You must pay your balance before XX/XX/XXXX or we will levy (seize) your property. If you do not make your payment now, we'll consider your noncompliance an active choice and you could face a levy.

Amount Due Immediately: \$

Payment must be received before XX/XX/XXXX to avoid a levy on your property. For options, see page 2.

DUPLICATE ONLY

LT11, Page 2

processor's website

the payment stub on the last page, make sure to allow time for mailing and processing

complete and temporary delay of collection, visit irs.gov/payments.

- Visit irs.gov/lt11 for more information about this notice.
- If you can't find what you need online or need assistance, you can call the **IRS at 123-456-6789**. Find tax forms or publications by visiting irs.gov/forms or calling 123-456-6789.

How to Request an Appeals Hearing

If you want to appeal this levy action, complete the enclosed Form 12153, Request for a Collection Due Process or Equivalent Hearing, and send it to us by XX/XX/XXXX. **You must complete, sign, and return this form to the above address by XX/XX/XXXX to preserve your right to contest an Appeals decision in the U.S. Tax Court.** A request received by the Service will generally be considered timely if the request is deposited with the United States mail within the 30-day period referred to, has a postmark date within the 30-day period, and the envelope containing the request is properly addressed with the correct postage prepaid. **If you send the letter after XX/XX/XXXX, you may still be entitled to a hearing; however, you'll forfeit your right to contest an Appeals decision in Tax Court.** Refer to the enclosed Publication 1660, Collection Appeals Rights, for more information and information on Collection Appeals Program (CAP).



Responding to CDP Notices

- Pay, or prepare Collection Information Statement to determine what your client can pay
- Request Collection Due Process (CDP) hearing, or, if 30-day period has expired, an equivalent hearing (request within one year, no Tax Court rights)



Responding to CDP Notices (cont'd)

- At CDP hearing, most common issues:
 - Collection alternatives (installment agreement, offer in compromise, partial pay installment agreement, currently not collectible)
 - Spousal defenses (innocent spouse)
 - Generally, cannot dispute the underlying liability
- After hearing
 - Petition Tax Court



Collection Information Statements

- Form 433A (for individuals)
- Form 433B (for businesses)
- Form 433F (simplified form for individuals)
- Form 433H (also installment agreement request)

Parts of Form 433-F

Part A: Accounts/Lines of Credit (includes investments and virtual currency)

Part B: Real Estate

Part C: Other Assets (includes vehicles, whole life policies)

Part D: Credit Cards



Parts of Form 433-F (cont'd)

Part E: Business Information (includes accounts receivable, virtual currency)

Part F: Employment Information (for taxpayer and spouse)

Part G: Non-Wage Household Information (includes child support, alimony, self-employment, rental income)

Part H: Monthly Necessary Living Expenses

Part H, Form 433-F

H. MONTHLY NECESSARY LIVING EXPENSES List monthly amounts. (For expenses paid other than monthly, see instructions.)

1. Food / Personal Care <i>See instructions. If you do not spend more than the standard allowable amount for your family size, fill in the Total amount only.</i>		4. Medical		Actual Monthly Expenses	IRS Allowed			
	Actual Monthly Expenses	IRS Allowed	Health Insurance					
Food			Out of Pocket Health Care Expenses					
Housekeeping Supplies			Total					
Clothing and Clothing Services			5. Other	Actual Monthly Expenses	IRS Allowed			
Personal Care Products & Services								
Miscellaneous								
Total								
2. Transportation						Child / Dependent Care		
	Actual Monthly Expenses	IRS Allowed				Estimated Tax Payments		
Gas / Insurance / Licenses / Parking / Maintenance etc.			Term Life Insurance					
Public Transportation			Retirement (<i>Employer Required</i>)					
Total			Retirement (<i>Voluntary</i>)					
3. Housing & Utilities			Union Dues					
	Actual Monthly Expenses	IRS Allowed	Delinquent State & Local Taxes (<i>minimum payment</i>)					
Rent			Student Loans (<i>minimum payment</i>)					
Electric, Oil/Gas, Water/Trash			Court Ordered Child Support					
Telephone/Cell/Cable/Internet			Court Ordered Alimony					
Real Estate Taxes and Insurance (<i>if not included in B above</i>)			Other Court Ordered Payments					
Maintenance and Repairs			Other (<i>specify</i>)					
Total			Other (<i>specify</i>)					
			Other (<i>specify</i>)					
			Total					

Under penalty of perjury, I declare to the best of my knowledge and belief this statement of assets, liabilities and other information is true, correct and complete.

Your signature	Spouse's signature	Date
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Reasonable Collection Potential

- Collection Information Statements are used to calculate reasonable collection potential (RCP).
- $RCP = \text{equity in assets} + \text{future income ability to pay}$.
- Used to determine appropriate collection alternative.

Allowable Living Expenses

- National standards (food, clothing)
- National standards (out of pocket health care)
- Local standards (transportation)
- Local standards (housing)
- See Collection Financial Standards on [irs.gov](https://www.irs.gov), updated annually:

<https://www.irs.gov/businesses/small-businesses-self-employed/collection-financial-standards>

*Deviations allowed (IRM 5.15.1.8).





Installment Agreements, Types

- Short-Term Payment Plan (pay in 180 days, no user fee)
- Long-Term Payment Plans or Installment Agreements (IAs)
 - Guaranteed IA (\leq \$10k, pay in the lesser of 3 years or CSED, no CIS required)
 - Streamlined IA (\leq \$50,000, pay in the lesser of 6 years or CSED, no CIS required)



Installment Agreements, Types (cont'd)

- Partial Pay IA (CIS required, pay to CSED, reviewed every 2 years)
- In-Business Trust Fund Express IA (\leq \$25,000, pay in lesser of 24 months or CSED)
- Routine IAs (all other IAs)

Installment Agreement User Fees

Depends on how IA payments will be made (direct debit – DDIA - or not) and how IA is set up (online or not).

- User fees waived for low-income taxpayers with DDIAs.
- IRS is required to reimburse IA user fees to low-income taxpayers unable to enter into DDIA upon completion of the IA.

Installment Agreements Restrictions

- Taxpayer must be in filing compliance
- Per IRC § 6331(k), the IRS is restricted from levying:
 - During a pending or accepted IA;
 - 30 days after rejected or terminated IA;
 - During a pending appeal of a rejected or terminated IA.

IRS may file a Notice of Federal Tax Lien and offset refunds.

Collection statute expiration date (CSED) is suspended for the same periods in which the IRS is prohibited from levying.

Offer In Compromise

- Authority: IRC § 7122.
- IRS Guidance: IRM 5.8.
- Form 656-B, Offer in Compromise Booklet.
- Generally, client must provide CIS to determine RCP.
- For OICs accepted on or after Nov. 1, 2021, IRS does not offset refunds/overpayments after date of acceptance against tax liabilities listed in offer.

Caution: Payments are non-refundable and submission of an offer extends the CSED! Low-income waiver available.



Offer in Compromise (cont'd)

- Offer Types
 - Doubt as to Liability (DATL - Use Form 656-L)
 - Doubt as to Collectability (DATC, RCP < debt)
 - Doubt as to Collectability with Special Circumstances (DCSC, RCP < debt, offer is < RCP)
 - Effective Tax Administration (ETA - due to economic hardship or public policy, RCP > debt)
- Payment options can be for up to 24 months
- Taxpayer must be in filing compliance and remain in filing and payment compliance for five years.



Currently Not Collectible (CNC)

- Authority: IRS Policy Statement 5-71 (see IRM 1.2.1.6.14).
- IRS Guidance: IRM 5.16.
- For CNC Hardship designation:
 - CIS generally required.
 - No assets or income available for levy (no RCP) or levy would create hardship.



Currently Not Collectible (cont'd)

For clients designated as CNC hardship:

- Levy is prohibited;
- Will not assign to Private Collection Agency;
- Notice of Federal Tax Lien may be filed;
- Refunds will be offset;
- Penalty and interest will accrue; and
- Exempt from Passport Certification.



Offset Bypass Refunds (OBR)

- Generally, only available before the IRS applies a current overpayment to a prior tax liability and where the taxpayer establishes economic hardship (timeframe is very short; generally, OBR should be requested with the filing of a return in which a refund is being claimed).
- Once the taxpayer establishes the amount of the hardship, the IRS will only bypass enough of the overpayment to alleviate the hardship.



Offset Bypass Refunds (cont'd)

- There is no specific form to request an OBR. Taxpayers can call the IRS to request an OBR, but the IRS may not answer their call. Assistance may be available from TAS, however.
- The IRS is drawing attention to this tool. See <https://www.irs.gov/about-irs/how-irs-collection-is-helping-taxpayers-during-the-pandemic>

Private Debt Collection

IRC § 6306 mandated the IRS use private collection agencies (PCA) for the collection of outstanding inactive taxes receivable.

Current PCA contracts:

1. CBE Group Inc.
2. ConServe
3. Coast Professional Inc.





Private Debt Collection (cont'd)

However, taxpayers can opt to work with the IRS rather than with a PCA by sending the PCA a “no-contact” letter.

See example at:

https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/10/R3_Do_Not_Contact_Sample_Letter.pdf



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Private Debt Collection (cont'd-2)

PCAs are authorized to:

- Contact taxpayers and request payment (IRS will also notify clients of assignment to PCA).
- Offer “payment arrangements” which are not installment agreements entered into with the IRS.

Note: PCA payment arrangements do not require a fee.



Private Debt Collection (cont'd-3)

PCAs are NOT authorized to:

- Take any enforcement action (lien, levy).
- Offer other collection alternatives (CNC Hardship status, OICs, partial payment IAs).



Resources

- <https://www.irs.gov/businesses/small-businesses-self-employed/collection-financial-standards>
- <https://www.irs.gov/payments/offer-in-compromise>
- <https://www.taxpayeradvocate.irs.gov/get-help/paying-taxes/offer-in-compromise/>
- <https://www.irs.gov/businesses/small-businesses-self-employed/temporarily-delay-the-collection-process>
- <https://www.taxpayeradvocate.irs.gov/get-help/paying-taxes/currently-not-collectible/>
- <https://www.taxpayeradvocate.irs.gov/contact-us/subscribe-to-tas/> to subscribe to the National Taxpayer Advocate's blog (English and Spanish)