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# The Collection Appeal Program (CAP):

*Do you know what to expect during a CAP appeal?*





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# What is a Collection Appeal Program (CAP) Proceeding?

Provides taxpayers or third parties an administrative appeal for certain collection actions including:

- Liens
- Levies
- Installment agreements
- Seizures
- Third-party claims to property





# Issues Available under CAP

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A taxpayer may appeal in CAP:

- A levy or seizure on each asset or the same asset previously levied if a newly discovered legal defect is the issue
- A lien filed in each subsequent location
- Each rejection, termination, or modification of an installment agreement





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# Issues Excluded under CAP

- Trust fund recovery penalties
- Offers in compromise
- Penalty appeals
- Most Jeopardy levies
- Audit reconsiderations
- Most claims





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# Issues Excluded under CAP

- Actions under the control of a court
- Issues not within the scope of Internal Revenue laws, i.e., moral, religious or constitutional issues
- Lien-filing determinations made by Appeals employees in CDP resolutions
- Collection's decision not to *release* a lien





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# CAP Process Overview

## Collection:

- Collection Group Manager conference required prior to appeal; except for IA issues
- Submit Form 9423 to request a CAP appeal; oral requests may be made for campus cases
- Enforcement is generally withheld pending appeal if timely received





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# When to Submit Appeal: Liens, Levies and Seizures

Timely within two days\* of Group Manager conference:

- Any time before/after lien or levy
- Before seizure or within 10 days after Notice of Seizure

\* (Three-to-ten days from GM conference still processable)





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# When to Submit Appeal: Installment Agreements

Within 30 days of notice issuance:

- When proposed IA is rejected
- When request to modify IA is rejected
- When IRS modifies an IA
- When an IA is proposed for termination
- When IA is defaulted or terminated





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# CAP Process Overview

## Appeals:

- Quick review by Appeals
- Telephone conference within 2 days
- Review for appropriateness of the proposed or taken action – did the IRS follow all legal and administrative procedures?
- Appeals administrative decision is final
- Not appealable to any court





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# CAP Case Study

- CAP Installment Agreements
- CAP Lien
- CAP Levy/Seizure





# Scenarios for Cases Gushers & Flushers, Inc.

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- Manufactures plumbing fixtures for US Navy
- Invested heavily in new prototypes
- \$100,000 in delinquent federal payroll taxes
- Recent 1120s show substantial losses
- Started making timely FTDs this quarter
- 2012 YTD- small positive net income
- Some accounts payable on a C.O.D. basis
- Accounts receivable have been factored
- CEO Seymour Profitt working on turnaround





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# CAP Installment Agreement Case Study

- IA proposal for \$2,000 made to the RO
- RO proposes rejection of IA proposal:
  - poor history of making timely FTDs
  - the company has sufficient equity in equipment and inventory to fully pay
  - the company does not appear able to make proposed IA payments and stay current on taxes
- The Independent Administrative Reviewer concurs, and the IA rejection letter is issued
- Form 9423 filed within 30 days of the date of rejection letter





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# CAP Installment Agreement Case Study



Settlement Officer Fair



Mr. Cash





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# CAP Proposed Lien Filing Case

- Taxpayer defaults on IA
- Collection terminates the IA; TP does not appeal the termination
- RO determines NFTL is required
- RO advises G&F NFTL will be filed
- G&F requests a conference with Manager
- Manager sustains RO's NFTL decision
- G&F timely submits Form 9423 within two days to RO requesting CAP appeal





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# CAP Proposed Lien Filing Case Study



Settlement Officer Fair



Mr. Cash





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# CAP Levy/Seizure Case Study

30 days after NFTL filing:

- RO informs G&F wants to levy accounts receivables and will close the business
- G&F requests 120-day extension to locate an investor
- G&F also requests another 30 days to secure a bank loan
- FTDs now current, and dishonored FTDs repaid





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# CAP Levy/Seizure Case Study



Settlement Officer Fair



Mr. Cash





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# Collection Appeal Program

- Quick appellate review
- Can occur in a variety of lien, levy seizure or installment-agreement situations
- Some issues may be excluded
- Appeals reviews Collections actions for compliance with all procedural and legal guidelines and appropriateness of the action
- Decision of Appeals is final





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# How can you help your clients?

- Present all arguments and documents to the Compliance manager- don't "save" anything for Appeals
- File the CAP request timely to prevent further collection action
- Be aware of issues that can and cannot be raised in CAP
- CAP conferences come quickly- be prepared and responsive





# For more information...

Visit Appeals at [www.irs.gov/appeals](http://www.irs.gov/appeals)

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**Individuals Topics**

- Abusive Tax Shelters
- Appeal a Tax Dispute
- Taxpayer Rights
- Online Payment Agreement
- Paying a Balance Due
- More Topics...

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**IRS Resources**

- Compliance & Enforcement
- Contact My Local Office
- e-file
- Forms and Publications
- Newsroom
- Frequently Asked Questions
- Taxpayer Advocate Service
- Where To File

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**Appeals... Resolving Tax Disputes**

**What Can Appeals Do for You?**  
The Appeals mission is to resolve tax controversies, without litigation, on a basis which is fair and impartial to both the Government and the taxpayer in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the Service.




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**Is Appeals the Place for You?**  
Appeals resolves over 100,000 cases per year.

**Are You Ready to Request an Appeals Conference or Hearing?**  
You can identify and explain the issues in dispute.

**Preparing a Request for Appeals**  
You're ready to file a protest. Here's the information you will need.

**What Can You Expect from Appeals?**  
Appeals will take a fresh look at your case and make a fair and impartial decision.

**Appeals Online Self-Help Tools**  
These are interactive tools that guide you to an outcome based on answers you provide. They deal with some of the most frequently encountered problems, such as: a rejection of a request for innocent spouse relief; denial of a request for abatement of certain delinquency penalties; and rejection of an Offer in Compromise.

- Online Videos and Podcasts of the Appeals Process**  
Check out videos and podcasts on what to expect in the Appeals process.
- Forms and Publications about Your Appeal Rights**  
Official IRS resources about the Appeals process and your rights as a taxpayer...
- Careers with Appeals**  
Rewarding opportunities, excellent benefits, and great people.
- Examination**  
Appealing Examination Issues
- Collection**  
Appealing Collection Issues

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**Alternative Dispute Resolution**  
There are ways to resolve tax issues faster.

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**Technical Guidance-International Programs**  
Compliance Coordinated Issues, Appeals Coordinated Issues, Appeals Emerging Issues

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**Art Appraisal Services**  
Taxpayer cases selected for audit containing artwork are referred to the Art Appraisal Services for review by an Art Advisory Panel.

