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**From:**

**Sent:** Wednesday, January 20, 2010 10:27:16 AM

**To:**

**Cc:**

**Subject:** FW: CDP Questions for

Hi

This is a follow up to the two questions you sent to \_\_\_\_\_ on January 4.

1. There are currently no formal procedures for the rescission of a Notice of Determination. In regards to the particular case that your question stems from, why was the information submitted after the Notice of Determination had been issued? In light of the new information, how does Appeals expect the case to be resolved?

2. No. The Letter 1058-D should still be sent to the taxpayer regardless of the fact that the levy has been released. Under section 6330(f), the Service has to provide the TP of a disqualified employment tax levy with a "reasonable" period of time after the levy, instead of before the issuance of the levy. When the RO issued the levy, he was unaware (?) of Appeals' efforts with TP to establish an Installment Agreement (IA) that would include the tax period that the levy covered. [Under section 6331(k)(2), a levy may not be made while an IA offer is pending with the Service].

Although Appeals is now considering the applicable tax period in the IA offer, the RO's issuance of the levy established the TP's right to be notified of his CDP hearing rights for the applicable tax period. The act of releasing the levy does not terminate the TP's statutory right to notice and hearing under section 6330(a); the Letter 1058-D should be sent to the TP. If the IA is rejected, the TP has to have been afforded his CDP rights for the tax period at issue in the now released levy.