

**Office of Chief Counsel
Internal Revenue Service
memorandum**

CC:PA:04:JDWalker
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to: Timothy J. Sample
Senior Program Analyst
Appeals Policy

from: Mitchel S. Hyman
Senior Technician Reviewer, Branch 3
(Procedure & Administration)

subject: Treatment of incorrectly-addressed CDP hearing requests

This explains our recommended revisions to the Internal Revenue Manual (IRM) procedures regarding the treatment of Collection Due Process (CDP) hearing requests mailed to an incorrect IRS address. Currently, the IRS determines the timeliness of incorrectly-addressed hearing requests based on when the request is received at the correct CDP processing site. In light of the confusion caused by including multiple addresses on the CDP Notice, we recommend that the IRS determine timeliness of certain incorrectly-addressed hearing requests based on the date the request is mailed.

Sections 6320 and 6330 of the Internal Revenue Code require the IRS to provide notice of the right to a CDP hearing (CDP Notice). Sections 6320(a)(2) and (3) provide that the taxpayer must request a CDP lien hearing within the 30-day period beginning on the day after the five-business-day period after the IRS files a Notice of Federal Tax Lien (NFTL). Sections 6330(a)(2) and (3) provide that the taxpayer has 30 days after the date of the CDP levy notice to request a hearing. Treas. Reg. § 301.6330-1(c)(1).

To receive a CDP hearing, taxpayers must send their CDP hearing request to the IRS office and address as directed on the CDP Notice. Treas. Reg. §§ 301.6320-1(c)(2), Q&A-C6 and 301.6330-1(c)(2), Q&A-C6. If a hearing request is properly addressed and postmarked before the deadline, in accordance with section 7502(a)(2), the IRS will deem the request timely even if it is not timely received. Treas. Reg. §§ 301.6320-1(c)(2), Q&A-C4 and 301.6330-1(c)(2), Q&A-C4. If a taxpayer improperly addresses the hearing request, they cannot benefit from this provision. I.R.C. § 7502(a)(2)(B); Treas. Reg. § 301.7502-1(c)(1)(i).

This CDP notice can take many forms depending on, for example, the type of collection action (NFTL filing, levy), the issuing component (Automated Collection, Field Collection), and the type of levy (Federal Payment Levy Program, State Income Tax

Levy Program). Some notices, like the LT11, serve the dual purpose of informing the taxpayer of their CDP rights and soliciting payment. To facilitate this dual purpose, the notices have one address for submitting the hearing request printed at the top of the first page, and another address for submitting payment printed on a removable payment voucher at the bottom of the first page. These notices are printed double-sided, and the payment address is printed to appear through the cellophane window on the envelope enclosed with the letter. Because the notices are printed double-sided, in addition to appearing on the top of the first page, the mailing address for the CDP hearing request may also be printed on the reverse side of the payment voucher. The payment voucher and CDP hearing request addresses may be the same, but often times they are not. Thus, for this type of notice, the taxpayer can inadvertently mail the CDP hearing request to the payment voucher address simply by inserting the voucher in the envelope backwards. In addition to the LT11, the CP92, CP77/78, and CP90/297 have the payment address printed on one side of the voucher and the mailing address for the CDP hearing request printed on the other side. Other notices, like the Letter 3172, do not solicit payment, but they do have the originating address at the top of the page and the mailing address for a CDP hearing request at the bottom of the page.

When a taxpayer mails the CDP hearing request to the wrong office, it sometimes takes several days or weeks to reach the correct office. Under current procedures, this results in taxpayers receiving equivalent hearings and, ultimately, depriving the taxpayer of the opportunity for judicial review. In June 2013, our office issued Program Manager Technical Advice (PMTA) to the IRS explaining our position that timeliness of an improperly-addressed hearing request is determined by when it is received in the correct office.

Consistent with this advice, the Service has procedures to forward improperly-addressed CDP hearing requests to the correct office and determine timeliness based on receipt in the correct office. See, e.g., I.R.M. 5.19.8.4.2. If a CDP hearing request is received in an incorrect office, that office is supposed to EEFax the request to the correct office on the same day. See IRM 5.19.8.4.2(1) (August 5, 2016). If the CDP hearing request is not addressed to the correct office as indicated in the CDP notice, the date to determine timeliness is the date the request is received by the IRS office to which the request should have been sent. IRM 5.19.8.4.2(8) (August 5, 2016). If the hearing request is received in the correct office after the period prescribed by sections 6320(a)(3) or 6330(a)(3), the taxpayer receives an equivalent hearing and ultimately a decision letter.

Because of the confusion caused by including multiple addresses on current versions of the CDP notices, we recommend that the Service determine timeliness based on the date the request was mailed to the wrong office, so long as the address of the wrong office was shown on the CDP notice (such as the payment voucher address on the LT11 or the originating office on the Letter 3172). This recommendation does not conflict with Treas. Reg. §§ 301.6320-1(c)(2) Q&A-C6 & 301.6330-1(c)(2) Q&A-C6, which state that taxpayers must send the CDP hearing request to “the IRS office and

address as directed on the CDP notice.” Any addresses on the notice should be deemed the “address as directed on the CDP notice.” The June 2013 PMTA should no longer be followed.

Litigating Hazards

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If you have any questions regarding this advice, please contact Jonathan Walker in Procedure & Administration, Branch 4 at (202) 317-5190.