

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

CC:PA:B03:EKMezheritsky  
POSTN-155264-07

**Via Facsimile, Regular Mail**

date: March 12, 2008

to: DIRECTOR, TAX POLICY & PROCEDURE, COLLECTION & PROCESSING, APPEALS  
DIRECTOR, COLLECTION POLICY, SBSE

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

---

subject: Timeliness of Collection Due Process Hearing Requests Hand Delivered to Taxpayer Assistance Centers

The purpose of this memorandum is to clarify how the IRS should treat Collection Due Process (CDP) hearing requests where the taxpayer, rather than sending the request to the address listed on the CDP Notice, hand carries the request to an IRS employee in a local Taxpayer Assistance Center (TAC). The issue recently arose in a Tax Court case in which we decided to concede that a CDP hearing request that was hand delivered to a local TAC within the 30-day filing period was a timely hearing request. In light of that case, we are informing you of our position that so long as the taxpayer hand carries the request to an IRS employee in a local TAC no later than 30 days from the date of the CDP notice with respect to hearing requests regarding levies, and no later than 30 days after the expiration of five business days after the date the Notice of Federal Tax Lien (NFTL) is filed with respect to a hearing request regarding an NFTL, the hearing request should be considered timely.

A hearing request regarding a NFTL must be submitted within the 30-day period that commences the day after the end of the five-business-day period following the filing of the NFTL. I.R.C. § 6320(a)(2). Hearing requests regarding levies must be submitted within the 30-day period commencing the day after the date of the CDP levy notice, provided the notice was mailed on or before that date. I.R.C. § 6330(a)(2).

Any written request for a CDP hearing "must be sent or hand delivered (if permitted) to the IRS office and address as directed on the CDP Notice." Treas. Reg. §§ 301.6320-1(c)(2) Q&A-C6; 301.6330-1(c)(2) Q&A-C6. If this address (or other address authorized in the regulations) is used and the written request is postmarked within the applicable 30-day response period (depending on whether the CDP hearing request is regarding a lien or a levy), then in accordance with section 7502, the request will be considered

PMTA 2011-14

timely filed even if it is not received by the IRS office that issued the CDP Notice until after the 30-day period. Treas. Reg. §§ 301.6320-1(c)(2) Q&A-C4, 301.6330-1(c)(2) Q&A-C4. The address listed on the CDP Notice is typically the location of the IRS campus location closest to the taxpayer's residence or place of business.

Sections 6320 and 6330, and the regulations promulgated pursuant to those statutes, would appear to require timely mailing to the office indicated on the CDP Notice. The regulations under section 6091, however, permit more flexibility with respect to hand carried hearing requests. Section 6091 sets forth the places for filing returns and other documents. The regulations under section 6091 provide a special rule for hand carried documents other than returns. Under §§ 301.6091-1(b)(1) and (2), if a document other than a return is hand carried, and if the document is otherwise required to be filed with a service center, such document may be filed with any person assigned the responsibility to receive hand carried returns in the local IRS office that serves either the legal residence or principal place of business of such person, or the principal place of business or principal office or agency of the corporation. Further, under § 301.6091-1(c), a document will be considered hand carried if it is brought to any person assigned the responsibility to receive hand carried returns in the local IRS office by either the taxpayer or the taxpayer's agent, such as a member of the taxpayer's family, an employee of the taxpayer, the taxpayer's attorney, accountant, or tax advisor, or messengers employed by the taxpayer. Finally, under § 301.6091-1(c), a return or document will not be considered to be hand carried if it is sent to the IRS through the U.S. Mail.

We conclude that the term "service center" under §§ 301.6091-1(b)(1) and (2) should be interpreted as referring to the campuses where the CDP hearing requests are currently sent. Although technically the CDP hearing request is not sent to a traditional "service center," and instead is sent to a "campus," a narrow interpretation of the term only serves to hinder the objective of the regulation. The term service center should be broadly interpreted to include regional or centralized offices such as those that receive and process returns, refund claims, hearing requests, etc. A "campus" may be characterized as a service center for purposes of these regulations.

TAC employees have even been authorized to receive tax returns that have been hand delivered. IRM 21.3.4.8(1). Therefore, when a CDP hearing request is required to be filed at a campus, but is instead hand carried to a local TAC employee, the request should be deemed timely so long as the date of delivery is not after the applicable 30-day filing period, even though the hearing request is not actually filed with the campus as directed on the CDP Notice. Upon receiving a hand carried request, the TAC employee should date stamp and initial the hearing request, and then forward the hearing request, preferably by fax, to the proper filing location. All CDP hearing requests received by the local IRS TAC should be promptly forwarded to the campus in order to ensure that unauthorized collection action is not taken.<sup>1</sup>

---

<sup>1</sup> Note, however, that a CDP hearing request is not properly filed if mailed to the local IRS TAC office. If the request is received by mail by the TAC, the request is not filed until received by the proper campus. As with hand-carried requests, TAC should promptly forward all requests received by mail to the proper filing location, preferably by fax.

Any questions regarding this memorandum should be directed to Procedure and Administration Attorney Elizabeth Mezheritsky who can be reached at (202) 622- 3600.

cc: Division Counsel  
(Small Business/Self-Employed)

National Taxpayer Advocate Counsel