

# Collection Appeal Rights

You may appeal many IRS collection actions to the IRS Office of Appeals (Appeals). The Office of Appeals is separate from and independent of the IRS Collection office that initiated the collection action. We ensure and protect our independence by adhering to a strict policy of no ex parte communication with the IRS Collection office about the accuracy of the facts or the merits of your case without providing you an opportunity to participate at that meeting. Revenue Procedure 2000-43 has more information about Appeals' mandatory independence and ex parte communication and is available at [www.irs.gov](http://www.irs.gov). The two main procedures are **Collection Due Process** and **Collection Appeals Program**. Other procedures are described on page four of this publication and at [www.irs.gov](http://www.irs.gov).

**Collection Due Process (CDP)** is available if you receive one of the following notices:

- *Notice of Federal Tax Lien Filing and Your Right to a Hearing under IRC 6320*
- *Final Notice - Notice of Intent to Levy and Notice of Your Right to a Hearing*
- *Notice of Jeopardy Levy and Right of Appeal*
- *Notice of Levy on Your State Tax Refund – Notice of Your Right to a Hearing*
- *Notice of Levy and Notice of Right to a Hearing with respect to a Disqualified Employment Tax Levy*

**Collection Appeals Program (CAP)** is available for the following actions:

- *Before or after the IRS files a Notice of Federal Tax Lien*
- *Before or after the IRS levies or seizes your property*
- *Termination, or proposed termination, of an installment agreement*
- *Rejection of an installment agreement*

CAP is generally quicker and is available for a broader range of collection actions. However, you cannot go to court if you disagree with the CAP decision. CAP procedures are described on pages three and four of this publication.

You may represent yourself at CDP, CAP and other Appeals proceedings. Or, you may be represented by an attorney, certified public accountant, or a person enrolled to practice before the IRS. Also, you may be represented by a member of your immediate family, or in the case of a business, by regular full-time employees, general partners or bona fide officers.

A Low Income Tax Clinic (LITC) may represent you if you qualify. Most LITCs provide representation before the IRS or in court on audits, tax collection disputes, and other issues for free or for a small fee. Some clinics can provide multilingual information about taxpayer rights and responsibilities. Publication 4134, *Low Income Taxpayer Clinic List*, provides information on clinics in your area and is available at your local IRS office, by calling 1-800-829-3676, or from [www.irs.gov](http://www.irs.gov).

If you want your representative to contact us or appear without you and to receive and inspect confidential material, you must file a properly completed Form 2848, *Power of Attorney and Declaration of Representative*. You may also authorize an individual to receive or inspect confidential material but not represent you before the IRS, by filing a Form 8821, *Tax Information Authorization*. These forms are available at your local IRS office, by calling 1-800-829-3676, or from [www.irs.gov](http://www.irs.gov).

## HEARING AVAILABLE UNDER COLLECTION DUE PROCESS (CDP) For Lien and Levy Notices

By law, you have the right to a CDP hearing by Appeals for these collection actions:

- The first time a Notice of Federal Tax Lien is filed for a tax and period.
- Before the first levy on your property for a tax and period.
- After levy on your state tax refund.
- After levy when collection is in jeopardy.

You may contest the CDP determination in the United States Tax Court.

**Lien Notice:** The IRS is required to notify you the first time a Notice of Federal Tax Lien is filed for each tax and period. The IRS must notify you within 5 business days after the lien filing. This notice may be mailed, given to you, or left at your home or office. You then have 30 days, after that 5-day period, to request a hearing with Appeals. The lien notice you receive will indicate the date this 30-day period expires.

**Levy Notice:** For each tax and period, the IRS is required to notify you the first time it intends to collect a tax liability by taking your property or rights to property.

The IRS does this by issuing you a levy notice. The IRS can't levy or seize your property within 30 days from the date this notice is mailed, given to you, or left at your home or office. During that 30-day period, you may request a hearing with Appeals. There are three exceptions to issuing this notice before levy:

1. When collection of the tax is in jeopardy.
2. When IRS levies your state tax refund.
3. When the criteria for a Disqualified Employment Tax Levy is met.

You may request a hearing after the levy action in these instances.

If your request for a CDP hearing is not timely, you may request an equivalent hearing. To receive an equivalent hearing, your request must be postmarked on or before the end of the one-year period after the date of the levy notice or on or before the end of the one-year period plus 5 business days after the filing date of the Notice of Federal Tax Lien.

## **How do you request a CDP or equivalent hearing with the Office of Appeals?**

Complete Form 12153, *Request for a Collection Due Process or Equivalent Hearing*, or other written request with the same information and send it to the address shown on your lien or levy notice. To request an equivalent hearing, you must check the Equivalent Hearing box on line 6 of Form 12153, or if you don't use Form 12153 write that you want an equivalent hearing if the CDP hearing request is late. If you received both a lien and a levy notice, you may appeal both actions by checking the boxes on line 5 of Form 12153 or if you don't use Form 12153, you may appeal both actions in one written request. You must identify your alternatives to, or your reasons for disagreeing with, the lien filing or the levy action. Alternatives or reasons for disagreeing may include:

- Collection alternatives such as installment agreement or offer in compromise.
- Subordination or discharge of lien.
- Withdrawal of Notice of Federal Tax Lien.
- Appropriate spousal defenses.
- The existence or amount of the tax, but only if you did not receive a notice of deficiency or did not otherwise have an opportunity to dispute the tax liability.
- Collection of the tax liability is causing or will cause an economic or other hardship.

You may not raise an issue that was raised and considered at a prior administrative or judicial hearing, if you, or your representative, participated meaningfully in the prior hearing or proceeding.

Form 12153 is available at your local IRS Office, by calling 1-800-829-3676, or from [www.irs.gov](http://www.irs.gov). Include a copy of your lien and/or levy notice. List all taxes and tax periods for which you are requesting a hearing. You are entitled to only one hearing relating to a lien notice and one hearing relating to a levy notice, for each taxable period. In general, the IRS will deny a hearing request that makes arguments identified by the IRS as frivolous or that is made to delay collection.

To preserve your right to go to court, you must request a CDP hearing within the time period provided by law. Your request for a CDP hearing must be sent to the address on the lien or levy notice and postmarked on or before the date shown in the lien notice or on or before the 30th day after the date of the levy notice.

Before you formally appeal a lien or levy notice by sending us Form 12153, you may be able to work out a solution with the Collection office that sent the notice. To do so, call the telephone number on the lien or levy notice and explain to the IRS employee listed on the notice or other representative why you disagree with the action. If a telephone number is not shown on the notice, you can call 1-800-829-1040. This contact, however, does NOT extend the 30-day period to make a written request for a CDP hearing.

## **What will happen when you request a CDP or equivalent hearing with the Office of Appeals?**

After you request a hearing, you may still discuss your concerns with the Collection office that sent the lien or levy notice. If you are able to resolve the issues with that office, you may withdraw your request for a hearing. If you are unable to, or do not choose to, resolve the issues with the Collection office, your case will be forwarded immediately to Appeals.

Appeals will contact you to schedule a conference. Your hearing will consist of an in-person or telephone conference and one or more written or oral communications.

Unless the IRS has reason to believe that collection of the tax is in jeopardy, levy action is not permitted for the subject tax and periods during the 30 days after the levy notice and during the timely requested CDP hearing. Normally, there will be no levy action during the period you have to request a hearing from a lien notice and during the CDP hearing.

If your request for a CDP hearing is timely, the 10-year period the IRS has to collect your taxes will be suspended until the date the determination becomes final or you withdraw your request for a hearing in writing.

At the conclusion of the CDP hearing, Appeals will issue a determination letter. If you don't agree with Appeals' determination, you may request judicial review of the determination by petitioning the United States Tax Court within the time period provided for in the Appeals' determination letter.

Appeals will retain jurisdiction over its determination. You may return to Appeals if you believe that the Collection function did not carry out Appeals' determination as it was stated or if there is a change in your circumstances that affects Appeals' determination. However, you must first try to work with Collection to resolve the problem.

If your request for a CDP hearing is not timely and you request an equivalent hearing, the law does not prohibit collection action and the collection statute is not suspended. Furthermore, you cannot go to court if you disagree with Appeals' decision.

## HEARING AVAILABLE UNDER COLLECTION APPEALS PROGRAM (CAP)

For Liens, Levies, Seizures and Installment Agreements

The CAP procedure is available under more circumstances than Collection Due Process (CDP). Unlike CDP, you may not challenge in CAP the existence or amount of your tax liability. You also cannot proceed to court if you don't agree with Appeals' decision in your CAP case. Collection actions you may appeal under CAP are:

**Notice of Federal Tax Lien.** You may appeal the proposed filing of a Notice of Federal Tax Lien (NFTL) or the actual filing of an NFTL at the first and each subsequent filing of the NFTL. You are entitled to a CDP hearing after the first filing of an NFTL. See the preceding information regarding **Hearing Available under Collection Due Process.** You may also appeal denied requests to withdraw a NFTL, and denied discharges, subordinations, and non-attachments of a lien.

**Notice of Levy.** You may appeal before or after the IRS places a levy on your wages, bank account or other property. You may also have additional CDP appeal rights. See the preceding information regarding **Hearing Available under Collection Due Process.** Once the levy proceeds have been sent to the IRS, you may also appeal the denial by the IRS of your request to have levied property returned to you.

**Seizure of Property.** You may appeal before or after the IRS makes a seizure but before the property is sold.

**Rejection or Termination of Installment Agreement.** You may appeal when the IRS rejects your request for an installment agreement. You may also appeal when the IRS proposes to terminate or terminates your installment agreement.

### ***How do you appeal a lien or levy action if your only collection contact has been a notice or telephone call?***

1. Call the IRS at the telephone number shown on your notice. Be prepared to explain which action(s) you disagree with and why you disagree. You must also offer a solution to your tax problem.
2. If you can't reach an agreement with the employee, tell the employee that you want to appeal his or her decision. The employee must honor your request and will refer you to a manager. The manager will either speak with you then or will return your call within 24 hours.
3. Explain to the manager which action(s) you disagree with and why. The manager will make a decision on the case. If you don't agree with the manager's decision, your case will be forwarded to Appeals for review. You do not have to submit the appeal request in writing.

### ***How do you appeal a lien, levy or seizure action if you have been contacted by a Revenue Officer?***

1. If you disagree with the decision of the Revenue Officer, you must first request a conference with the Collection manager.
2. If you do not resolve your disagreement with the Collection manager, you may submit a written request for Appeals consideration, preferably by completing Form 9423, *Collection Appeal Request*. This form is available at your local IRS office, by calling 1-800-829-3676, or from [www.irs.gov](http://www.irs.gov). Check the action(s) you disagree with and explain why you disagree. You must also offer a solution to resolve your tax problem.
3. Submit the Form 9423 to that Collection office.
4. If you request an appeal after the IRS makes a seizure, you must appeal to the Collection manager within 10 business days after the Notice of Seizure is given to you or left at your home or business.
5. You should let the Revenue Officer or manager know within 2 business days of your conference with the Collection manager if you want to appeal under CAP or the IRS will resume collection action. Your Form 9423 must be postmarked within 3 business days after the date of your conference with the Collection manager in order to prevent the resumption of collection action.

### ***How do you appeal the denial by the IRS of your request to release or return levied or seized property, if you believed the property was wrongfully levied or seized?***

1. If you do not agree with the denial of the request to release or return wrongfully levied/seized property or its value, you must first request a conference with the manager of the Advisory Group denying your request.
2. Call the telephone number on the letter denying your request and explain that you want a conference with the Advisory Group manager.
3. If you do not resolve your disagreement with the Advisory Group manager, you must submit a written request for Appeals consideration, preferably on Form 9423, *Collection Appeal Request*. This form is available at your local IRS office, by calling 1-800-829-3676, or from [www.irs.gov](http://www.irs.gov). Check the action you disagree with and explain why you disagree.
4. Submit the completed Form 9423 to the Advisory Group office that denied your request to release or return of wrongfully levied/seized property or its value.

### **How do you appeal the rejection of a proposed installment agreement?**

1. Call the telephone number shown on the letter rejecting your proposed installment agreement and explain that you want to appeal the rejection. Your appeal need not be in writing unless the rejection letter was sent by a Revenue Officer, in which case your request for an appeal must be in writing, preferably using Form 9423, *Collection Appeal Request*. While a conference is recommended, you need not have a conference with a Collection manager before appealing the rejection of a proposed installment agreement.
2. Your request for an appeal of the rejection of a proposed installment agreement must be made on or before the 30th day after the date of the rejection letter (the mailing of a written request, including a Form 9423, must be postmarked on or before such day).

### **How do you appeal the termination of an installment agreement?**

1. Call the telephone number shown on the notice that indicates that the IRS intends to terminate your installment agreement. If you are unable to resolve the matter, then explain that you want to appeal the termination. Your appeal need not be in writing unless the notice of intent to terminate your installment agreement was sent by a Revenue Officer, in which case your request for an appeal must be in writing, preferably using Form 9423, *Collection Appeal Request*. While a conference is recommended, you need not have a conference with a Collection manager before appealing the termination of an installment agreement.
2. You will have 76 days from the date of the notice of intent to terminate in which to request an appeal. Unless you appeal within 30 days after the date of the notice, or cure your default of the installment agreement, the installment agreement will terminate automatically on the 46th day after the date of the notice. After the 46th day, and the termination of your

agreement, your right to appeal will continue for an additional 30 days. Accordingly, your request must be made on or before the 76th day after the date of the notice of intent to terminate (the mailing of a written request, including a Form 9423, must be postmarked on or before such 76th day).

### **What will happen when you appeal your case?**

**Lien, Levy and Seizure:** Normally, the IRS will not take any action to collect the tax for the tax periods Appeals is considering, unless the IRS believes the collection of the tax is at risk or you are a business meeting the criteria for a Disqualified Employment Tax Levy.

**Installment Agreements: IMPORTANT** - The IRS can't levy until 30 days after the rejection or termination of your agreement. If you appeal within the 30-day period, the IRS will be prohibited from levying until your appeal is completed unless the IRS believes the collection of the tax is in jeopardy.

Once Appeals makes a decision regarding your case, that decision is binding on both you and the IRS. You cannot obtain judicial review of Appeals' decision following a CAP hearing.

**Note:** Providing false information, failure to provide all pertinent information or fraud will void Appeals' decision.

### **APPEAL OF OTHER COLLECTION ACTIONS**

You may also appeal other collection actions:

- Rejected Offer in Compromise
- Proposed Trust Fund Recovery Penalty
- Denied Trust Fund Recovery Penalty Claim
- Denied request to abate penalties (i.e., late payment, late filing, or deposit penalties)

To dispute a penalty in Appeals, follow the protest requirements in Publication 5, *Your Appeal Rights and How To Prepare A Protest If You Don't Agree*. Also, the correspondence you receive on these types of cases will explain where you should send your protest.

### **Help if you are experiencing economic harm...**

If you are experiencing economic harm or are seeking help in resolving a tax problem that has not been resolved through normal channels or believe an IRS system or procedure is not working, as it should, you may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TTD 1-800-829-4059. TAS cannot extend the time you have to request a CDP, equivalent or CAP hearing. The timeframes for requesting these hearings are explained in this publication.

