Appeals

Working With The IRS Office Of Appeals – What To Expect

11/9/2018
“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.”
Collection Appeals FY19 Updates

• Director of Collection Appeals-Kristen E Bailey
• Settlement Officer Hiring
• Paperless Collection Due Process (CDP)-Case Work Received from Automated Collection System Support (ACSS) (Appeals Campus Cases Only)
• In Person Conference Request with Campuses
• WebEx (Notice 1438)
• Settlement Officer Hiring
The Office of Appeals

- Established in 1927
- Informal administrative forum
- Settle tax disputes without trial
- Fair and Impartial
- Independent
Appeals’ Role in IRS

- Appeals does not continue development of cases from Compliance
- Appeals will not raise new issues
- All rules adopted to protect or reinforce our independence – taxpayers must have confidence in fairness of appellate process
Hazards of Litigation

- Appeals has exclusive authority to settle cases based on hazards of litigation (HOL)
  - HOL means the uncertainty of the outcome if an issue goes to court
- AOs take a quasi-judicial approach to resolving cases
- If Appeals is unable to resolve a case, the taxpayer retains right to judicial review in court (exception)
Is Appeals the place for you?

• Did you:
  • Receive a letter explaining your right to appeal?
  • Not agree with the IRS’ decision?
  • Choose not to sign an agreement sent to you?

• Then you may request an Appeals conference by filing a written protest

• Exception:
  • If case originated from automated collection system, you may request verbally
• Taxpayer may:
  • Represent themselves
  • Have a qualified tax professional authorized by law represent them
• Provide all information
  • It’s important that you provide all requested and/or relevant info to the auditor or revenue officer who works your case
  • Waiting to provide such info to Appeals will generally result in case being returned to auditor or referred to the revenue officer for consideration of the new information
• Either one may cause delays
Our Commitments

• Explain your appeal rights and the Appeals process
• Listen to your concerns
• Be courteous and professional
• Be timely and responsive
• Be fair and impartial
Your Responsibilities

• In your protest, list all the issues you disagree with and why, and tell us how you understand the facts and the law
• Listen to our explanation of your appeal rights and the Appeals process, including the timeframe to resolve your case
• Provide relevant information, but understand it may be sent back to Compliance
• Let us know the best time to contact you
Response Times

• Response times can vary depending on type of case and time needed for review
• Taxpayers can expect to hear from Appeals within 120 days of filing
• If more than 120 days elapse without hearing from us, contact the office where you sent your request
Conferences

- Appeals offers personal contact for taxpayers in all cases.
- Most cases resolved by telephone, but other options include:
  - Correspondence
  - Case assistance (campus cases)
  - Virtual service delivery (working toward better virtual options for the future) (campus cases)
  - In person (including circuit riding)
  - WebEx (Notice 1438)
• Appeals may invite IRS Chief Counsel or Compliance to participate in a conference
Ex Parte Prohibition

• Ex parte rules apply to communications between Appeals and Compliance employees (Rev. Proc. 2012-18)
• Rules prohibit oral or written communications about the substance of a specific case without giving the taxpayer an opportunity to participate
• Appeals considers three types of litigating hazards
  • Factual
  • Evidentiary
  • Legal
• AOs also may consider how the courts might interpret the law, what facts the court might find, whether certain information would be admissible or what weight such information might be given as evidence
• Three major types of Collection cases worked
  • Collection Appeals Program (CAP)
  • Offer in Compromise (OIC)
  • Collection Due Process (CDP)
• CAP provides an administrative appeal
  • Seizures, levies, liens, and terminated installment agreements
• In CAP hearings, Appeals’ consideration is strictly limited to whether the action taken or proposed was appropriate
An OIC is an agreement between a taxpayer and the government that settles a tax liability for payment of less than the full amount owed.

Authorized to compromise a liability on any one of three grounds:

- Doubt as to Collectability,
- Doubt as to Liability, or
- Promoting effective tax administration.
Collection Due Process (CDP)

- Purpose of a CDP hearing is to have Appeals review collection actions that were taken or have been proposed.
- Can request a CDP hearing if you receive any one of these notices:
  - Federal Tax Lien Filing and Your Right to a Hearing
  - Intent to Levy and Notice of Your Right to a Hearing
  - Jeopardy Levy and Right of Appeal
  - Levy on Your State Tax Refund—Notice of Your Right to a Hearing
  - Levy and of Your Right to a Hearing
• If taxpayer provides new issue or new information and
• AO determines it merits investigation or analysis by Compliance
• Appeals will return case to Compliance to examine the information and/or issue and make a determination
• Cases returned to Compliance for additional examination must have at least 210 days remaining on the statute

• If taxpayer and Compliance still cannot agree on the result, there must be 180 days remaining on the statute for Appeals to reconsider the case

• This process reinforces and supports our independence and impartiality
• Appeals offers programs to expedite case resolution
• Other Dispute Resolution Options include:
  • Fast-Track Settlement (FTS)
  • Fast-Track Mediation –Collection (FTMC)
  • Early Referral
  • Post-Appeals Mediation (PAM)
  • Rapid Appeals Process (RAP)
Department of the Treasury
Internal Revenue Service
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