

Chapter 1 : IRS Collection Due Process Rights - Law Offices of David C. Dodge

Complete Form , Request for a Collection Due Process or Equivalent Hearing It is important to identify all the reasons for any disagreement you have. The completed Form should be sent to the same address that is shown on your CDP Notice.

Cash flow is the lifeblood of every business and slow paying customers can seriously affect it. There are four Accounts Receivable Procedures that every business should implement to expedite collections of past due accounts receivable: Ask for the money Set up a process and follow it Put delinquent accounts on credit hold Use third party collectors sooner

1. Ask for the money You provided a product or service and your customer is obligated to pay for it. You need to contact a customer if their account is past due and ask for payment. Sometime this simple request can act as a reminder and get the bill paid. Many business owners, particularly those that perform professional services for their clients, are uncomfortable asking for payment. You need to get over it or assign the responsibility to someone else in your company. Set up a process and follow it

Collections are an important part of your financial operations and you need to set up systems and procedures like you would for any other back office activity. Define what tasks are to be performed, when they occur and who is responsible. A credit and collections management system like Anytime Collect www.anytimecollect.com. Below is a sample communications schedule for a moderately aggressive program to get you started. Call the customer to inform them that the invoice is past due and ask when you can expect payment. This initial call may uncover issues that are preventing payment. The message should be brief and to the point: Thank you for your business Your account is now past due Let us know if there is a problem or error Otherwise, please remit the amount due If do not have resources to make every call, prioritize. The initial call is important because it sends the message that you expect to be paid and can uncover valuable information. After that, focus your calling efforts on the largest dollar amounts and invoices that are seriously past due. The AR aging reports available in most accounting software packages do not readily support this approach but there are collection management software products specifically designed for this purpose which are useful if you have a large volume of invoices or accounts to collect. Put delinquent accounts on credit hold Denial of desired products or services is your leverage with a delinquent customer. If you provide something that your customer needs, withhold further delivery until they pay or make acceptable payment arrangements. You can also consider making future shipments COD or require cash in advance while a past due balance is being paid down. Use third party collectors sooner The longer you wait the harder it is to collect. If you wait six months to a year before taking action the debt is virtually impossible to collect. Best results are obtained if third-party collectors are engaged when an invoice is approximately 90 days old, although this can vary by industry. There are numerous professional collection resources available including agencies and law firms. The typical collection fee agreement is contingency-based with your company paying a percentage of any amounts collected but paying nothing if the collection efforts are not successful. However, there are fixed-fee offerings available where you pay a set amount for every account submitted for collection but keep everything that is paid. Also, some attorneys bill for their services on an hourly basis, whether or not anything is ever collected.

Chapter 2 : Principles and Methods of Collections

The Collection Due Process (CDP) procedures, which generally require IRS to give taxpayers a hearing relating to a lien or levy. A CDP hearing relating to a lien is available in cases where the taxpayer has received notice of IRS's filing of an NFTL (a notice of federal tax lien).

Also, at each step, your tone should be more demanding. If your personnel resources are limited, you should choose your larger accounts first, and possibly consider outsourcing the smaller dollar delinquencies from the time the customers become delinquent. The longer an account is past due, the less your chances are of collecting it. Many customers pay only after you contact them, believing that if you do not ask them for the money, you really do not care if they pay slowly. After a while they know who pressures them and who does not, so be one of the "early birds" and start your collection process promptly. If a customer had traditionally paid within your discount terms, and is a large purchaser, do not wait until the net terms expire, contact them after the discount period has expired. If you have certain large customers whom you know wait for your call before they pay, call them a few days before the payment is due to find out if there are any billing or shipping problems that need to be resolved before they mail their check. This diminishes any excuse they may have to delay payment, and lets them know you have caught on to their delay game. You should obtain the name of the individual who has the authority to issue payments when you begin your initial credit investigation. The more bases you can cover, the greater your chances are to avoid bureaucratic excuses. How should you collect--by letter, telephone, fax, in person? If your business routinely provides proofs of delivery for your customers, include these too. If the file is not updated, this may be a good time to do it. This information may give you clues as to why your customer is not paying you. Also, it will give you the opportunity to ask more incisive questions and tailor your payment request for better results. In person is probably the best method of collecting, because you are face-to-face with your customer. In addition to hearing what they are saying, you can also watch facial expressions and body language, have an opportunity to look around the premises for any signs of physical deterioration, examine inventory levels, watch customer activity, etc. In some instances, if you know your customer is going to be in your vicinity, invite them to your office to talk about the account, or meet them in a neutral place. A problem with personal visits is that they are expensive. You may want to save them for your largest and most troublesome accounts. Telephoning is probably your most cost-effective collection method. This is the best way to learn to counter some of the most common excuses why your customer cannot pay, such as: The product was defective, missing, mispriced, returned The check is in the mail The bookkeeper is on vacation The system is down Always observe good telephone manners. When you are dealing with a delinquent customer, expect some emotion from them. Infrequently, a customer will become agitated and abusive. If this does not work, and particularly if they become abusive, tell them politely that you are terminating the conversation, and hang up. After you calm down, try again. Most of the time, the second call is more productive, and many times the customer will offer an apology. Accept it, and go on with your business. Before making your payment request, decide what your fallback position is. Even though you should always ask for full payment immediately, you know that in some instances you may not get it. Know the timing and minimum dollar amount that you will accept. If you do not have the authority to make concessions, discuss the matter with someone in charge, and agree on how far you can extend your offer. However, do not let your intent be known to the customer. Keep this as a negotiating tool. In some instances you will better protect your interests by agreeing to a payout, rather than insisting on a full payment immediately. You never know if your request will be the one to push your account over the edge to bankruptcy. How often to follow-up? If your customer makes a commitment, note the date and amount on a calendar, and follow up with them if the check does not arrive. If you do not do it, your customer may think you really do not care, and may delay even longer. In structuring payouts over time, keep the length of total time as short as possible, and opt for weekly rather than every two weeks or monthly payments. You should always confirm any payout plan in writing, and use actual dates and amounts of the payments. Send two copies of your confirming letter to the customer along with a prepaid addressed envelope. Ask them to sign a

copy of the letter, acknowledging that they understand and agree to your plan, and return it to you. In any confirming letter, you should state that if the customer does not adhere to the agreement, the entire amount is immediately payable in full. Your ability to continue to support the customer and at what volume level, should be based on the gross margin return your company earns on the sale. This action may be defined in your credit and collection policy. In some cases you may have to withhold shipments, but remember that by doing this, you have cut off part of your relationship. The customer may need your goods to raise cash to pay for the unpaid merchandise. By spoon-feeding the financially troubled customer, you may get "stuck" on the last payment, but in-the-meantime, you have moved inventory which is part of your responsibility to your company. If the customer cannot get your product elsewhere, you are in a good position, but if they have alternate sources of supply, you have lost some of your leverage. In any plan where you continue to ship, structure the payments so they exceed the value of the shipments in order to bring the entire past due balance down to zero at the end of the payout period. You can do this with a restructured series of payments, or by tying each order into a payment; i. Regardless of how you have contacted the customer, here are some other points to consider: In some cases, you may ask the customer to send a series of post-dated checks. While this does not guarantee they will all clear the bank, at least you control the mailing and deposit, and you do not have to rely on the customer to do it. If your payout plan includes taking any guarantees or security, make sure your legal department or representative reviews any formal agreements before they are finalized. During any payout arrangement where you are continuing to ship goods, be prepared to stop if: Never threaten a customer in writing or orally that their credit reputation will be ruined if they do not pay you. In the first place, you are not telling them something they do not already know, and secondly, you could be sued. Also, do not threaten legal action unless you are fully prepared to follow through, and have received the necessary approval from your management. Always keep your sales and distribution people informed about your collection efforts, especially those that are under credit restriction. This will avoid them working at cross purposes by soliciting or shipping orders. Also, in certain instances your sales reps may be able to assist in the collection effort. Make sure you check with management before you attempt this. Using letters is another option for collecting. These can be useful for confirmation of telephone agreements, or may be used in mass mailings if you have the ability to automate the process. Consider these points if you use letters: This also indicates your sense of urgency. Using certified US Mail is another option, but many customers suspect that they are collection letters, and do not accept them. Sometimes using a plain envelope with no return address on it, but containing your letterhead may be helpful. If you do FAX, address it to a specific individual, and call that person first, asking them to be on the lookout for it. Faxing can be useful for sending the documents the customer may need to pay, such as invoice copies, proofs of delivery, lists of open invoices, etc. When you should start legal action cannot be answered by any specific time frame. If your customer has not ordered from you, sent a payment, answered a letter, or returned a phone call for at least three weeks, in spite of all your efforts, call some other suppliers and find out what they may know. As a final note, if and when the customer files for protection under the bankruptcy laws, you must stop all collection activities against the debtor. Contact your legal representative for further information on this matter.

By freezing collection activities, the CDP procedures and, to a lesser extent, the CAP procedures can provide tremendous benefits, providing a fair and equitable process for both the IRS and taxpayers.

Collecting debts from customers is a balancing act for business owners. Getting the money is important, but not offending or alienating customers is also a goal in business. Although the specific procedures for collecting a debt can vary, a company needs to follow several general guidelines to ensure collection while trying to retain customers for future sales.

Second Invoice The first step in collecting a debt from a customer is to send him a second invoice clearly marked as overdue. If the customer neglected to pay because of a simple oversight, he may rectify the account quickly. Invoices should be sent at day intervals. Call the person in charge of paying the invoice and remind him the account is past due. Ask for the total balance to be paid. In normal procedures, where a finance charge or interest is added to a past-due account, point out this fact. Remain resolute and committed to collecting the debt but be professional and courteous. He may have a legitimate reason for being late in paying the bill. Offer alternatives without conceding the debt. For example, the customer may have had an unexpected financial situation that forced him to postpone payment. If his payment history had been good, a restructure of payments may be acceptable. However, if the customer has had a history of late payments, leniency may not be the best approach.

Debt Collection Agency A licensed debt collection agency may agree to collect an overdue debt for a percentage of the balance due. The procedures used by debt collectors are governed by the federal Fair Debt Collection Practices Act, which prohibits overly aggressive or invasive tactics. Businesses also must follow state laws on debt collection. Small-claims court is one route a business can take to collect overdue debts. However, for significant amounts beyond small claims, the services of an attorney are recommended.

Letter gives you 30 days to request a Collection Due Process (CDP) hearing to discuss the lien filing. You should request a CDP hearing using Form if you feel the lien is inappropriate. However, as explained in Publication , in a CDP hearing Appeals can only discuss the existence of or amount that you owe under limited circumstances.

Introduction The Constitution states only one command twice. The Fifth Amendment says to the federal government that no one shall be "deprived of life, liberty or property without due process of law. These words have as their central promise an assurance that all levels of American government must operate within the law "legality" and provide fair procedures. Most of this essay concerns that promise. If a Bill of Rights guarantee is "incorporated" in the "due process" requirement of the Fourteenth Amendment, state and federal obligations are exactly the same. However, others believe that the Due Process Clause does include protections of substantive due process--such as Justice Stephen J. The requirement that government function in accordance with law is, in itself, ample basis for understanding the stress given these words. A commitment to legality is at the heart of all advanced legal systems, and the Due Process Clause often thought to embody that commitment. The clause also promises that before depriving a citizen of life, liberty or property, government must follow fair procedures. Thus, it is not always enough for the government just to act in accordance with whatever law there may happen to be. Citizens may also be entitled to have the government observe or offer fair procedures, whether or not those procedures have been provided for in the law on the basis of which it is acting. Before the state could take that right away from a student, by expelling her for misbehavior, it would have to provide fair procedures, i. If "due process" refers chiefly to procedural subjects, it says very little about these questions. Courts unwilling to accept legislative judgments have to find answers somewhere else. In the Nineteenth Century government was relatively simple, and its actions relatively limited. Most of the time it sought to deprive its citizens of life, liberty or property it did so through criminal law, for which the Bill of Rights explicitly stated quite a few procedures that had to be followed like the right to a jury trial "rights that were well understood by lawyers and courts operating in the long traditions of English common law. Occasionally it might act in other ways, for example in assessing taxes. In *Bi-Metallic Investment Co.* This left the state a lot of room to say what procedures it would provide, but did not permit it to deny them altogether. Accordingly, the Due Process Clause would not apply to a private school taking discipline against one of its students although that school will probably want to follow similar principles for other reasons. But as modern society developed, it became harder to tell the two apart ex: Process was due before the government could take an action that affected a citizen in a grave way. Two Supreme Court cases involved teachers at state colleges whose contracts of employment had not been renewed as they expected, because of some political positions they had taken. Were they entitled to a hearing before they could be treated in this way? The other teacher worked under a longer-term arrangement that school officials seemed to have encouraged him to regard as a continuing one. Licenses, government jobs protected by civil service, or places on the welfare rolls were all defined by state laws as relations the citizen was entitled to keep until there was some reason to take them away, and therefore process was due before they could be taken away. When process is due In its early decisions, the Supreme Court seemed to indicate that when only property rights were at stake and particularly if there was some demonstrable urgency for public action necessary hearings could be postponed to follow provisional, even irreversible, government action. This presumption changed in with the decision in *Goldberg v. Kelly* , a case arising out of a state-administered welfare program. What procedures are due Just as cases have interpreted when to apply due process, others have determined the sorts of procedures which are constitutionally due. This is a question that has to be answered for criminal trials where the Bill of Rights provides many explicit answers , for civil trials where the long history of English practice provides some landmarks , and for administrative proceedings, which did not appear on the legal landscape until a century or so after the Due Process Clause was first adopted. Because there are the fewest landmarks, the administrative cases present the hardest issues, and these are the ones we will discuss. A successor case to *Goldberg*, *Mathews v. Eldridge* , tried instead to define a method by which due process questions could be successfully

presented by lawyers and answered by courts. Mathews attempted to define how judges should ask about constitutionally required procedures. The Court said three factors had to be analyzed: Using these factors, the Court first found the private interest here less significant than in Goldberg. A person who is arguably disabled but provisionally denied disability benefits, it said, is more likely to be able to find other "potential sources of temporary income" than a person who is arguably impoverished but provisionally denied welfare assistance. Respecting the second, it found the risk of error in using written procedures for the initial judgment to be low, and unlikely to be significantly reduced by adding oral or confrontational procedures of the Goldberg variety. In particular, the Court assumed as the Goldberg Court had not that "resources available for any particular program of social welfare are not unlimited. The Court also gave some weight to the "good-faith judgments" of the plan administrators what appropriate consideration of the claims of applicants would entail. Matthews thus reorients the inquiry in a number of important respects. First, it emphasizes the variability of procedural requirements. Rather than create a standard list of procedures that constitute the procedure that is "due," the opinion emphasizes that each setting or program invites its own assessment. About the only general statement that can be made is that persons holding interests protected by the due process clause are entitled to "some kind of hearing. Second, that assessment is to be made concretely and holistically. It is not a matter of approving this or that particular element of a procedural matrix in isolation, but of assessing the suitability of the ensemble in context. Third, and particularly important in its implications for litigation seeking procedural change, the assessment is to be made at the level of program operation, rather than in terms of the particular needs of the particular litigants involved in the matter before the Court. Cases that are pressed to appellate courts often are characterized by individual facts that make an unusually strong appeal for proceduralization. Indeed, one can often say that they are chosen for that appeal by the lawyers, when the lawsuit is supported by one of the many American organizations that seeks to use the courts to help establish their view of sound social policy. Finally, and to similar effect, the second of the stated tests places on the party challenging the existing procedures the burden not only of demonstrating their insufficiency, but also of showing that some specific substitute or additional procedure will work a concrete improvement justifying its additional cost. Thus, it is inadequate merely to criticize. The litigant claiming procedural insufficiency must be prepared with a substitute program that can itself be justified. The Mathews approach is most successful when it is viewed as a set of instructions to attorneys involved in litigation concerning procedural issues. The hard problem for the courts in the Mathews approach, which may be unavoidable, is suggested by the absence of fixed doctrine about the content of "due process" and by the very breadth of the inquiry required to establish its demands in a particular context. While there is no definitive list of the "required procedures" that due process requires, Judge Henry Friendly generated a list that remains highly influential, as to both content and relative priority: Notice of the proposed action and the grounds asserted for it. Opportunity to present reasons why the proposed action should not be taken. The right to present evidence, including the right to call witnesses. The right to know opposing evidence. The right to cross-examine adverse witnesses. A decision based exclusively on the evidence presented. Opportunity to be represented by counsel. Requirement that the tribunal prepare a record of the evidence presented. Requirement that the tribunal prepare written findings of fact and reasons for its decision. This is not a list of procedures which are required to prove due process, but rather a list of the kinds of procedures that might be claimed in a "due process" argument, roughly in order of their perceived importance. Author The original text of this article was written and submitted by Peter Strauss menu of sources.

Chapter 5 : The Standard Operating Procedure for the Collection of Debt From Non-Paying Customers | ca

You can prepare and submit a Collection Due Process Request on IRS Form , Request for a Collection Due Process or Equivalent Hearing. This form requires you to provide background information about you, as well as the reason(s) why you think the IRS should not pursue the lien or notice of intent to levy against you.

See our prior posts on the case here and here. In this second post on the second opinion, the issue discussed concerns the attempt to make a voluntary payment. The majority decided that the attempt fails leaving the taxpayers with outstanding debt on more recent, but still old, years. The Melaskys owe taxes for many years dating back to Over the years from until they filed their CDP request in , they made various attempts to settle the debt through offers in compromise OIC and installment agreements IA. They had also made at least one designated payment of a lump sum to one of their more recent tax years. The levy caused the bank to place a 21 day hold on their account and the hold occurred prior to the payment on the January 27th check. Regular readers of this blog know that a taxpayer can make a voluntary payment and direct the IRS where to apply the check; however, if the IRS collects funds involuntarily the IRS can decide where to apply the levy proceeds and it does so in a manner that best protects the government. We have discussed the general issue of the voluntary payment rule here , here and here. There are many reasons for a taxpayer to want to make a voluntary payment. In the employment tax context, a corporate taxpayer will almost always want to designate a payment to outstanding trust fund portion of the liability in order to protect corporate officers from the trust fund recover penalty found in IRC For individual income taxes such as the ones at issue here, taxpayers almost always want to designate payments to the most recent tax years, or the most recently assessed tax years, in order to obtain the possible benefit of older periods falling off the books due to the statute of limitations on collection or due to positioning for a bankruptcy petition in which the priority rules of bankruptcy will allow discharge of older tax years. Whatever was motivating the Melaskys, their strategy followed the normal pattern for taxpayers with multiple periods of outstanding tax liabilities. The abnormal aspect of this case results from the timing of the levy vis a vis the voluntary payment. While I imagine that this fact pattern may occur in other cases, it would not occur often. The fact pattern also raises the question of whether the IRS sought to levy quickly after receiving a check in order to reorder the application of payments. The court addresses whether the voluntary submission of the check prior to the levy on the bank account permits the Melaskys to designate the application of the payment here or whether the fact that the payment to the IRS actually comes via the levy rather than the check allows the IRS to post the payment to the earliest outstanding liability. They timely requested a CDP hearing and subsequently petitioned the Tax Court upon receiving an adverse determination letter from Appeals. Part 3 of this series will focus on the installment agreement aspect of the case while this post focuses on the voluntary payment issue. Anyone who has ever received a bad check can easily identify with that rule. If, however, a check is honored the payment relates back to the time of delivery of the check. Here, the bank never honored the check because by the time it went to clear the account had no funds. Since the check did not clear, it could not constitute payment and since it did not constitute payment, any instructions regarding what to do with the payment because irrelevant. They argued that the Tax Court should create an equitable exception for situations in which the check does not clear due to that actions of the IRS. The Melaskys cited no authority for the adoption of such an equitable rule which is not to say they cited no authority. The court finds no reason to create an equitable exception to the normal rule of allowing designation only if a payment occurs. The IRS levy appears procedurally sound in its execution and logical in its use given the long history of non-payment. One could almost get the feeling equity is a bad word here. As an aside, you may be wondering how Judge Holmes can even participate in a fully reviewed opinion since his term as an appointed Tax Court judge ended on June 29, , causing him to assume senior status while Congress works through its amazingly quick appointment process to approve his reappointment. Because he is the trial judge in this case, he is allowed to participate in court conference on this case and to have his voice heard in the fully reviewed opinion. On the point of his dissent, Judge Lauber writes a spirited concurring opinion in which he is joined by several judges. Judges Buch and Pugh write a narrow

concurring opinion pointing out that on the facts of this case it appears the IRS followed all procedures but on similar facts it might be possible to find that the levy interfered with the attempted voluntary payment. All in all, the opinion gets very long because of the depth of the disagreement and the Tax Court shows more fractures in its personal relationships than we might normally observe. For this inside glimpse, you might read the entire opinion. He expresses concerns about whether in doing so it followed the requirement of IRC b to obtain proper approval and why it would impose such a penalty when IRC has a good faith and reasonable cause exception. Because the amount is small relative to the overall liabilities and maybe because of the timing of the imposition of the penalty vis a vis the CDP case, the Melaskys did not raise an objection to the imposition of this penalty. So, that issue will wait for another day. Judge Holmes finds that the Appeals employee handling the CDP case did not provide an adequate explanation of the basis for concluding the payment did not meet the voluntary payment rules and, therefore, the court should remand the case. The primary concern raised by Judge Homes brings in the Chenery doctrine which binds the agency to the reasons expressed for its decision. He provides a detailed analysis of federal tax cases regarding the timing of application of payment when made by check. The concurring opinion does not spend much time addressing this collection of cases but focuses on Judge Holmes analysis of contract law and the interference the levy created with the ability of the Melaskys to complete performance of the payment of their check. He proposes a bright line rule that if the IRS causes a check to bounce the taxpayers should receive the benefit of the voluntary payment rule. The concurring opinion pushes back hard on the use of contract principles, the application of the Chenery doctrine in the way described by Judge Holmes and in the idea that the Appeals employee did anything wrong in making his decision. As always I learned a lot by reading Judge Holmes dissent but I am persuaded here that the majority got it right. Whether the IRS inadvertently caused the attempted voluntary payment to fail or the cause had been some third party, the failure of the check to clear keeps a taxpayer from gaining the benefits of the voluntary payment rule. That may be the greatest lesson for those seeking to make a voluntary payment and who want to avoid unpleasant surprises.

Chapter 6 : What Is a Collection Due Process Hearing With the IRS? | calendrierdelascience.com

The Collection Due Process System - It is the best Opportunity to finally resolve your tax liabilities in the most favorable terms. The Collection Due Process Hearing is your best opportunity to finally resolve your tax liabilities in the most favorable terms.

See our post on the case here. As discussed more fully below, this case took way too long to resolve. We suggest that it serve as a sign that the process needs to change in order to go back to its original design. I acknowledge that by suggesting the system move more quickly some low income taxpayers who gather information slowly may be disadvantaged. The IRS already closes cases based on lack of taxpayer responsiveness and it should. Except for taxpayer who seek to use CDP to delay, I think that quicker movement by Appeals and the Court actually benefits most low income taxpayers because they stay engaged in the process. When their case goes on the shelf for six months or a year, they disengage. At the Appeals stage taxpayers generally have a relatively short time to reengage and that hurts low income taxpayers. I would rather see early engagement with a slightly longer time to respond. The Melaskys filed their Tax Court petition on May 21, The Tax Court rendered its opinion on October 10, The extremely short time frame provided to taxpayers in CDP cases reflected Congressional intent that these cases move quickly because delay in collection often proves fatal to successful collection. Congress placed no time limits on either Appeals or the Tax Court even though it placed these tight time frames on taxpayers. Carl Smith and I wrote about the disparity in a pair of articles, here and here , back in and analyzing that both Appeals and the Tax Court took longer to resolve CDP cases than deficiency cases. This could not have been what Congress intended. Since our articles, my non-empirical observation is that CDP cases may be moving faster in Tax Court because IRS counsel is filing more motions for summary judgment, the court rules require that they be filed earlier and the Tax Court disposes of most of the cases slightly quicker. The Melasky case shows the opposite side of the coin. The Tax Court has decided not to adopt procedures that would move CDP cases on a faster track than deficiency cases. Appeals also has not created procedures that fast track CDP cases. In addition to the six plus years this case has spent in Tax Court to this point, the case spent 14 months in Appeals. Taxpayers filed their CDP request on February 9, Appeals held the initial hearing over six months later on August 25, The hearing occurred back in a bygone era when taxpayers could obtain a face to face hearing. I read that part of the opinion with nostalgia wondering how they received a face to face meeting until I looked at the dates. Appeals issued the notice of determination on April 20, These taxpayers were no strangers to collection by the time they made their CDP request. They have liabilities going back to with multiple proposals for offers in compromise and installment agreements strewn along the way. Maybe it took six months just to send their undoubtedly voluminous collection file over to the Appeals Office but it seems that Appeals could create a system of moving these cases quickly into hearing. CDP was loosely modeled on CAP appeals which are to take place within five business days after the request. The Appeals employee working this case gave the taxpayers months to liquidate their assets. As will be discussed in Part 3, taxpayers failed to liquidate all of their assets and that ultimately led to the determination to sustain the levy. The taxpayers here were able to actively delay the case because Appeals lacks a triage system. Appeals needs to adopt a triage system that gets to the taxpayer quickly to engage in a conversation about what is expected and necessary for a successful outcome. Then it can perform its verification and balancing while the taxpayer provides the necessary information to support its request. Treat the initial hearing like a CAP hearing to get the process going. By waiting six months just to hold the initial hearing, the CDP process will necessarily move slowly. In our article from nine years ago Carl and I made the following proposals: To carry out the intent of the creators of CDP for an expedited process, the authors propose that the tolling of the statute of limitations on collection end six months after the CDP notice is sent if the taxpayer makes a timely CDP request. However, the authors would not propose altering one current protection of the CDP statute that in no event can the collection period expire before the 90th day after the date on which there is a final determination by the IRS or the courts in that hearing. To address the issue of mounting interest and time sensitive

penalties, another possible avenue for revision of the statute is to adopt a provision similar to section b to stop the further accrual of interest and penalties once the administrative portion of the hearing exceeds six months. The Tax Court also could adopt procedures to move these cases faster. It could give the IRS 30 days to file the answer instead of 60 days. It does not take very long to deny everything. It could schedule a telephonic conference within 30 days of the case coming at issue and encourage summary judgment motions from the parties at that point. In our article seven years ago Carl and I made the following proposals: We recommend that the Tax Court amend its rules and adopt procedures that foster the early movement of CDP cases through the court. Following this filing, the court should either issue an order to show cause or an order for the filing of a report by the parties. This would require the taxpayer to state how the administrative record might be inaccurate or incomplete, and it would require both parties to state why the case should not be decided on the administrative record. This case should be a wake-up call that the CDP process is broken and that in 20 years the players have not taken steps to avoid making it Collection Delay Process instead of Collection Due Process. Cases involving a merits or an innocent spouse determination would obviously move on a slower track more in line with regular cases of those types while pure collection cases would get resolved quickly to allow the process to work as intended.

Chapter 7 : ACCOUNTS RECEIVABLE PROCEDURES TO EXPEDITE COLLECTIONS - AnytimeCollect

The Collection Due Process (CDP) Program was designed to give taxpayers an opportunity for an independent review to ensure that a levy action that has been proposed or a lien that has.

Chapter 8 : Collection Due Process procedures - Dennis Associates | Tax Returns

enhanced due process protection in tax collection in response to questions from Senator Roth: As your hearings have confirmed, revenue officers in IRS district Collection Divisions have enormous discretion in taking collection action against taxpayers, including the filing of.

Chapter 9 : What is a Collection Due Process (CDP) Hearing? :: Los Angeles IRS Lawyer Dennis Brager

The detailed collection procedure is listed below. The process flow noted here only generally represents the stages of interaction with a customer. These steps might be shuffled, supplemented, or eliminated, depending on the payment status of each invoice.