

COLLECTION APPEAL RIGHTS

You can appeal many IRS collection actions. If you receive a **Notice of Federal Tax Lien Filing & Your Right To a Hearing Under IRC 6320** (Lien Notice), a **Final Notice - Notice of Intent to Levy And Your Notice of a Right to A Hearing**, or **Notice of Jeopardy Levy and Right of Appeal** (Levy Notices), you can appeal under Due Process procedures. You have 30 days to request a hearing with the IRS Office of Appeals and you can go to court if you object to Appeals' determination. Under the Collection Appeals Program (CAP) you can appeal any IRS collection action at any time but you cannot proceed to court if you object to Appeals' determination. Appeals will try to give you a decision within five business days after they receive the appeal on a CAP case. If you are told by a Collection employee that a Notice of Federal Tax Lien will be filed, you can appeal that action under CAP before the Notice of Federal Tax Lien is filed. A Due Process appeal is available only after the Notice of Federal Tax Lien is filed.

HEARING AVAILABLE UNDER DUE PROCESS

For Lien and Levy Notices

The law provides you the right to a fair hearing by the IRS Office of Appeals after a Notice of Federal Tax Lien is filed and before a levy on your property is issued. You also have the right to contest Appeals' determination in Tax Court or U.S. District Court, as appropriate. Under Due Process, you may request a hearing for each taxable period for one or both of the following IRS actions:

LIEN Notice. IRS is required to notify you that a Notice of Federal Tax Lien has been filed within 5 days after filing. You then have 30 days from the date of the lien notice to request a hearing with the IRS Office of Appeals.

LEVY Notice. IRS is required to notify you of its intention to collect a tax liability by taking your property or rights to property. The IRS does this by sending you a levy notice. No levy or seizure can occur within 30 days from the date of mailing of the levy notice or the date the levy notice is given to you or left at your home or business. During that 30 day period, you may request a hearing with the IRS Office of Appeals. There are two exceptions to this levy or seizure notice provision. When the collection of tax is in jeopardy or when the IRS issues a levy to collect from a state tax refund, the IRS may issue a levy without sending a levy notice or waiting 30 days after it sends the notice.

How to Request a Hearing under Due Process with the Office of Appeals

- Complete Form 12153, Request for a Collection Due Process Hearing, and send it to us at the address shown on your lien or levy notice within 30 days. Identify the IRS action(s) you disagree with (levy and/or lien notice) and explain why you disagree. You may appeal both actions, if you received both a lien and levy notice. You must identify all of your reasons for disagreement with the IRS at this time.
- To preserve your right to go to court, you must send us the Form 12153 within 30 days. Include a copy of your lien and/or levy notice. List all tax(es) and taxable periods for which you are requesting a hearing. You are entitled to only one hearing under Due Process for each taxable period. If you receive a subsequent lien or levy notice after you request a hearing on a lien or levy notice, Appeals can consider both matters at the same time. You can obtain Form 12153 by calling 1-800-829-3676.

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- At the hearing, you may raise any relevant issue relating to the unpaid tax including
 1. Appropriateness of collection actions;
 2. Collection alternatives such as installment agreement, offer in compromise, posting a bond or substitution of other assets;
 3. Appropriate spousal defenses;
 4. The existence or amount of the tax, but only if you did not receive a notice of deficiency or did not have an opportunity to dispute the tax liability.
 - You may not, however, raise an issue that was raised and considered at a prior administrative or judicial hearing, if you participated meaningfully in the prior hearing or proceeding.
 - Before you formally appeal a lien or levy notice by sending us Form 12163, you may be able to work out a solution with the Collection function that proposed the action. To do so, contact the IRS employee whose name appears on the lien or levy notice and explain why you disagree with the action. This contact, however, does NOT extend the 30 day period to request an appeal.

What will happen when you request a hearing with the Office of Appeals?

- Unless we have reason to believe that collection of the tax is in jeopardy, we will stop collection action during the 30 days after the levy notice and, if your appeal is timely, during the appeal process. We will also suspend the collection statute of limitations, which is 10 years, from the date we receive a timely filed Form 12153, until the date the determination is final. Your appeal is timely if you mail your request for a

hearing on or before the 30th day after the date of our lien or levy notice.

- If your appeal request is not timely, you will be allowed a hearing, but there will be no statutory suspension of collection action and you cannot go to court if you disagree with Appeals' determination.
- Appeals will contact you to schedule a hearing, either in person or by telephone. At the conclusion of the hearing, Appeals will issue a written determination letter. If you agree with Appeals' decision, both you and the IRS are required to live up to the terms of the decision.
- If you do not agree with Appeals' decision, you may request judicial review of the decision by initiating a case in a court of proper jurisdiction (United States Tax Court or United States District Court, depending on the circumstances) on or before the 30th day after the date of Appeals' decision. Once the Court rules, its decision will be binding on both you and the IRS.

The IRS Office of Appeals will retain jurisdiction over its determinations and how they are carried out. You may also return to Appeals if your circumstances change and impact the original decision. However, you must exhaust your administrative remedies first.

You may represent yourself at your Due Process hearing or you may be represented by an attorney, certified public accountant or a person enrolled to practice before the IRS. If you want your representative to appear without you, you must provide a properly completed Form 2848, Power of Attorney and Declaration of Representative.

ADMINISTRATIVE COLLECTION APPEAL RIGHTS

COLLECTION APPEALS PROGRAM (CAP)

For Liens, Levies, Seizures and Installment Agreements
Under the CAP procedure, you do not have the right to a judicial review of Appeals' decision

The IRS CAP procedure is available under more circumstances than the Due Process hearing procedure. It is important to note, however, that you cannot obtain judicial review of Appeals' decision following a CAP hearing.

IRS Collection Actions You Can Appeal

- *Notice of Federal Tax Lien* - You may appeal before or after IRS files a lien. You may also appeal denied requests to withdraw a Notice of Federal Tax Lien, and denied discharges, subordinations, and non-attachments of a lien. If IRS files a Notice of Federal Tax Lien, you may have additional Due Process appeal rights. See the preceding information regarding Hearing Available Under Due Process.
- *Notice of Levy* - You may appeal before or after the IRS places a levy on your wages, bank account or other property. Before a levy is issued, you may have additional Due Process appeal rights. See the preceding information regarding Hearing Available Under Due Process.
- *Seizure of Property* - You may appeal before or after IRS makes a seizure. However, if you request an appeal after IRS makes a seizure, you must appeal to the Collection manager within 10 business days after the Notice of Seizure is provided to you or left at your home or business.
- *Denial or Termination of Installment Agreement* - You may appeal when you are notified that IRS intends to deny you an installment agreement or terminate your installment agreement.

How to Appeal One of These IRS Collection Actions 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 your solution to your tax problem.
2. If you cannot reach an agreement with the IRS employee, tell the employee that you want to appeal their 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 which action(s) you disagree with and why you disagree to the manager. The manager will make a decision on the case. If you do not agree with the manager's decision, we will send your case to an Appeals Officer for review.

How to Appeal One of These IRS Collection Actions If You Have Been Contacted By A Revenue Officer

1. If you disagree with the decision of the Revenue Officer, and wish to appeal under CAP, you must first request a conference with a Collection manager.
2. If you do not resolve your disagreement with the Collection manager, you may request Appeals consideration by completing Form 9423, Collection Appeal Request .
3. On the Form 9423, check the action(s) you disagree with and explain why you disagree. You must also explain your solution to resolve your tax problem. **WE MUST RECEIVE YOUR REQUEST FOR AN APPEAL WITHIN 2 DAYS OF YOUR CONFERENCE WITH THE COLLECTION MANAGER OR WE RESUME COLLECTION ACTION.**

What will happen when you appeal your case:

Normally, we will stop collection action related to the IRS action(s) you disagree with until the Appeals Officer makes a determination, unless we have reason to believe that collection of the amount owed is at risk.

You may have a representative

You may represent yourself at your Appeals conference or you may be represented by an attorney, certified public accountant or a person enrolled to practice before the IRS. If you want your representative to appear without you, you must provide a properly completed Form 2848, Power of Attorney and Declaration of Representative. You can obtain Form 2848 from your local IRS office or by calling 1-800-829-3676.

Decision on the appeal

Once the Appeals Officer makes a decision on your case, that decision is binding on both you and the IRS. This means that both you and the IRS are required to accept the decision and live up to its terms. You cannot obtain judicial review of Appeals Officer decision following a CAP hearing.

Note: If you provide false information, fail to provide all pertinent information, or fraud will void Appeals' decision.



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