

Internal Revenue Service
Appeals Office
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Department of the Treasury

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Date: **SEP 20 2011**

Refer Reply to:
AP:FE:COL:MGH

Taxpayer Identification Number:
[REDACTED]

Tax Type/Form Number:
1040

In Re:
Collection Due Process Hearing
(Tax Court)

Tax Period(s) Ended:
12/2003

CERTIFIED MAIL

**NOTICE OF DETERMINATION
CONCERNING COLLECTION ACTION(S) UNDER SECTION 6320 and/or 6330**

Dear Ms. [REDACTED]:

We have reviewed the collection actions that were taken or proposed for the period(s) shown above. This letter is your Notice of Determination, as required by law. A summary of our determination is stated below. The attached statement shows, in detail, the matters we considered at your Appeals hearing and our conclusions about them.

If you want to dispute this determination in court, you must file a petition with the United States Tax Court within 30 days from the date of this letter.

To obtain a petition form and the rules for filing a petition, write to: Clerk, United States Tax Court, 400 Second Street, NW, Washington, D.C. 20217, or access the Tax Court website at www.ustaxcourt.gov.

In addition to the regular United States Tax Court procedures, the United States Tax Court also has a simplified procedure for an appeal under section 6330(d)(1)(A) of a determination in which the unpaid tax does not exceed \$50,000. You may also obtain information about this simplified procedure by writing to the United States Tax Court or accessing the United States Tax Court website at www.ustaxcourt.gov.

The time limit (30 days from the date of this letter) for filing your petition is fixed by law. The courts cannot consider your case if you file late. If an appeal is filed in the incorrect court (e.g., United States District Court), you will not be able to refile in the United States Tax Court if the time period for filing a Tax Court petition has expired.

If you do not petition the court within the time frame provided by law, your case will be returned to the originating IRS office for action consistent with the determination

summarized below and described on the attached page(s). If you have any questions, please contact the person whose name and telephone number are shown above.

Summary of Determination

IRS failed to follow legal requirements.

The subject assessment is to be abated.

The filed lien is to be released.

The proposed levy is not appropriate.

Sincerely,

Catherine L. Lacienski

Catherine L. Lacienski
Appeals Team Manager

mgaf

Enclosure(s): Attachment

Attachment

Type of Tax(es)	Tax Period(s)	Date of CDP Notice	Type of hearing	Date used to determine timeliness
1040	200312	07/13/2010	6320	08/19/2010
1040	200312	11/08/2010	6330	11/26/2010

SUMMARY AND RECOMMENDATION

Taxpayer timely requested hearings to challenge the filed lien and proposed levy.

Taxpayer raised many issues, among them, that the liability is not valid since she never received a Notice of Deficiency for subject assessment.

There is no evidence that IRS sent a statutory Notice of Deficiency per IRC§6212. Therefore, the subject tax assessment is not valid under IRC §6213 and is to be abated.

Accordingly, Taxpayer's requested face-to-face hearing to prevail in her challenges is neither productive nor necessary.

Since the assessment is to be abated, collection alternatives are moot.

Since IRS failed to follow legal requirements, the actions taken and proposed are not appropriate. The assessment is to be abated, the proposed levy is not appropriate and the Notice of Federal Tax Lien is to be released.

BRIEF BACKGROUND

The subject liability is a balance due for tax year 2003 based on an audit assessment.

Among many of the issues raised in Taxpayer's request for a Collection Due Process hearing is the challenge to the liability- Taxpayer claimed she never received the statutory Notice of Deficiency.

Appeals scheduled a telephone hearing for December 30, 2010, but Taxpayer requested a face-to-face hearing to dispute the filed lien and proposed levy.

DISCUSSION AND ANALYSIS

Verification of legal and procedural requirements

Additional tax assessments may be made under IRC §6213 upon default of a statutory notice of deficiency issued to Taxpayer's last known address under the provisions of IRC §6212. Per IRC §6212

If the Secretary determines that there is a deficiency in respect of any tax imposed by subtitles A or B or chapter 41, 42, 43, or 44, he is authorized to send notice of such deficiency to the taxpayer by certified mail or registered mail.

A review of the administrative record shows no evidence that IRS sent such notice to Taxpayer.

IRS failed to follow legal requirements and the actions taken and proposed are not appropriate.

Therefore, the subject assessment is not valid and is to be abated.

Prior involvement:

The Settlement Officer had no prior involvement with respect to the specific tax periods in either Appeals or Compliance.

Collection statute verification:

The collection statute has been suspended; the collection period allowed by statute to collect these taxes has been suspended by the appropriate computer codes for the tax periods at issue.

Issues raised by the taxpayer

Challenges to the Existence of Amount of Liability

Among many issues raised, Taxpayer challenged the liability, claiming she never received the statutory Notice of Deficiency.

Since the Settlement Officer found no evidence to support that the Government mailed the required statutory Notice of Deficiency, the assessment is not valid per IRC §6213 and is to be abated.

Collection Alternatives Offered by Taxpayer

Taxpayer's proposed collection alternatives are moot, since the assessment is to be abated.

Other relevant issues

Taxpayer requested a face-to-face Collection Due Process hearing to dispute the filed lien and proposed levy.

Since the subject assessment is to be abated, her request for a face-to-face hearing is not necessary and would not be productive.

There were no other relevant issues.

Balancing of need for efficient collection with taxpayer concern that the collection action be no more intrusive than necessary.

Since IRS failed to follow legal requirements, the actions taken and proposed are not appropriate. The assessment is to be abated, the proposed levy is not appropriate and the Notice of Federal Tax Lien is to be released.