

K. TAS Is Working with the IRS to Resolve Certain Taxpayer Accounts with Extensions of Time for Collection That Exceed Current Policy Limits.

Prior to enactment of the IRS Restructuring and Reform Act of 1998 (RRA 98), IRS collection employees routinely solicited waivers to extend the collection statute expiration date (CSED) when it did not appear the taxpayer could pay the tax owed within the limits of the collection statute. The IRS extended some CSEDs as much as 50 years.¹ RRA 98 limited this practice by restricting CSED waivers to extensions secured in connection with Installment Agreements (IAs).²

The IRS recently adopted the Taxpayer Bill of Rights, which provides that taxpayers have the *right to finality*. Lengthy extended periods during which the IRS can collect tax violate this foundational right.

Despite adopting a policy in 1991 of limiting CSED waivers to five years in connection with IAs, the IRS continued soliciting waivers of longer than five years in certain cases until the law changed in 2000.³ Later, the American Jobs Creation Act of 2004 amended IRC § 6159 to provide for partial payment installment agreements (PPIAs).⁴ The IRS responded by limiting its five-year CSED extension policy to certain PPIAs.⁵

Since 2004, the National Taxpayer Advocate has identified these lengthy CSEDs as a most serious problem for taxpayers because they “do not comply with current policies” and consequently lead to disparate treatment and significant burden for many tax-

payors.⁶ As of December 31, 2013, 3,853 individual taxpayers had accounts that remained subject to IRS collection action because the taxpayers had entered into lengthy extensions of the CSED in connection with an installment agreement prior to RRA 98.⁷ This situation does not comport with the principles underlying RRA 98 or current IRS policy. Moreover, the IRS recently adopted the Taxpayer Bill of Rights, which provides that taxpayers have *the right to finality*.⁸ Lengthy extended periods during which the IRS can collect tax violate this foundational right.

1 IRS, Compliance Data Warehouse (CDW), Integrated Data Retrieval System (IDRS), analysis of IDRS transaction code (TC) 550, definer code (DC) 0 and 1 for Individual Master File (IMF) accounts for tax periods ended on or before Dec. 31, 1998 (Apr. 20, 2013).

2 Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98), Pub. L. No. 105-206, § 3461, 112 Stat. 685, 764 (1998).

3 IRM 5331.1(12)(b)2 (Oct. 30, 1991).

4 American Jobs Creation Act of 2004 (AJCA), Pub. L. No. 108-357, § 843(a) and (b), 118 Stat. 1600 (Oct. 22, 2004). Prior to 1998, IRS employees sometimes entered into monthly payment agreements that would not fully pay the tax liability over the term of the agreement. In 1998, IRS Counsel concluded that these partial payment agreements were not permitted. In 2004, Congress enacted the AJCA to legally provide for partial payment installment agreements. H.R. Conf. Rpt. 108-755, at 649-650 (Oct. 7, 2004).

5 IRM 5.14.2.1 (July 12, 2005). The procedure permits waivers of five years plus one year may be added for administrative actions.

6 National Taxpayer Advocate 2004 Annual Report to Congress 180-192; National Taxpayer Advocate 2009 Annual Report to Congress 217-227; National Taxpayer Advocate 2012 Annual Report to Congress 469-474; National Taxpayer Advocate 2013 Annual Report to Congress 147-154.

7 IRS, Compliance Data Warehouse (CDW), Integrated Data Retrieval System (IDRS), analysis of IDRS transaction code (TC) 550, definer code (DC) 0 and 1 for IMF accounts for tax periods ended on or before Dec. 31, 1998 (Apr. 20, 2013). The actual number of unique individual taxpayers is 3,853. This does not include the 452 business taxpayers (and 2,115 modules) with excessive CSEDs.

8 IRS Publication 1, *Your Rights as a Taxpayer* (June 10, 2014); see also <http://www.taxpayeradvocate.irs.gov/About-TAS/Taxpayer-Rights>. *The right to finality* states, “Taxpayers have the right to know the maximum amount of time they have to challenge the IRS’s position as well as the maximum amount of time the IRS has to audit a particular tax year or collect a tax debt. Taxpayers have the right to know when the IRS has finished an audit.”

In response to Taxpayer Advocate Directive (TAD) 2010-3, the Small Business/Self-Employed Division (SB/SE) and TAS formed a workgroup to investigate and resolve CSED extensions exceeding five years.⁹ The group, with the assistance of the IRS Office of Chief Counsel, recently provided IRS and TAS management with several options that would resolve accounts with lengthy CSED extensions systemically rather than case by case. IRS and TAS management plan to brief the Commissioner, who has the authority to implement their recommendations, in the near future.

In the meantime, the group identified approximately 150 cases that might need to be excluded from any systemic solution. Those cases have indicators of a prior criminal investigation, bankruptcy, litigation, or an offer in compromise account freeze codes.¹⁰ In FY 2015, TAS will work with SB/SE to determine which cases should be excluded. Cases that no longer have the exclusion conditions will be part of the systemic solution.

⁹ Taxpayer Advocate Directive (TAD) 2010-3 and responses to the TAD, *available at*: <http://www.irs.gov/Advocate/Taxpayer-Advocate-Directives-and-Related-Documents>. A TAD, authorized by Delegation Order 13-3 (formerly DO-250, Rev. 1), grants the National Taxpayer Advocate authority to issue a Taxpayer Advocate Directive (TAD) to mandate administrative or procedural changes to improve the operation of a functional process or to grant relief to groups of taxpayers (or all taxpayers). TADs are used when implementation will protect the rights of taxpayers, prevent undue burden, ensure equitable treatment, or provide an essential service to taxpayers. The only avenue of appeal of a TAD is to the Deputy Commissioner for Services and Enforcement. IRM 1.2.50.4 (Jan. 17, 2001); IRM 13.2.1.6.2 (July 16, 2009).

¹⁰ IRS, Compliance Data Warehouse (CDW), Integrated Data Retrieval System (IDRS), analysis of IDRS transaction code (TC) 550, definer code (DC) 0 and 1 for Individual Master File (IMF) accounts for tax periods ended on or before Dec. 31, 1998 (Apr. 20, 2013). The transaction codes in the modules indicated prior activity in those categories. A freeze code is an account action that prevents credits from transferring out of those accounts.