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Ultimate Collection Statutes Expiration Date (CSED)Tax Workshop

Day Two

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1

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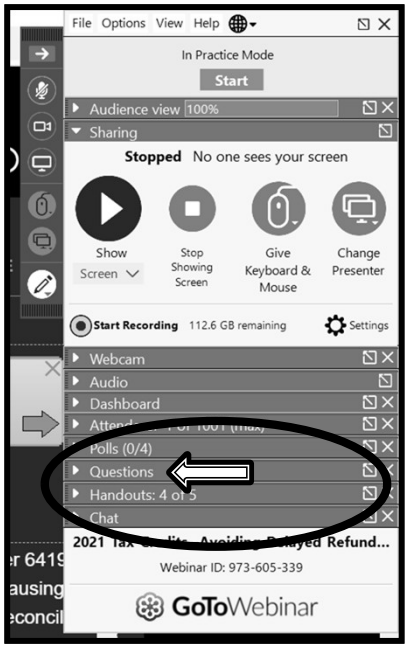

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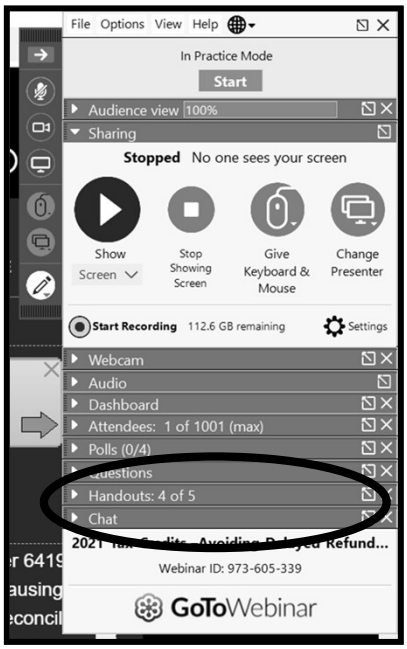
4

Handout Overview

- PDF slides from presentation.
- IRS Pub 4235 – Advisory Group Contacts
- IRS Form 870 Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment (Innocent Spouse determination)



5

Roger Nemeth, EA, NTPI Fellow
President, Tax Help Software

- Started managing tax franchises in 2006.
- Developed Audit Detective in 2010.
- Qualified as an N.T.P.I. Fellow in 2015.
- Has taught courses awarding over 150,000 hours of CE/CPE.
- THS users have downloaded over 1 billion transcripts over the past decade.
- In 2022 THS users will request 1.3 billion transcripts and receive over 400 million transcripts.

Tax Help Software™

6

Catharine O'Connor, Esq.
Head of Education, Tax Mentor

- Licensed to practice in Florida since 2012
- Practiced Tax Controversy from 2012-2020 for one of the largest national tax resolution companies.
- Resolved millions in tax debts, logged thousands of call hours with IRS collections personnel, and worked with hundreds of clients to resolve their tax controversy issues.
- Subject matter expert in tax issues facing small businesses, particularly payroll tax debts, with years of practical experience in achieving excellent results for my client.

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7

Laura Thompson, EA
General Manager Tax Help Software

- Laura has been in the tax preparation business since 1999. She became an Enrolled Agent in 2007.
- While employed with a large franchise she served as a Tax Preparer, Training Coordinator which included organizing IRS approved classroom events for Continuing Education for Enrolled Agents as well as all staff updates and software training.
- She became an Area Manager for 14 locations in 2012. This included training, hiring, tax support, responding and resolving customer service issues, technology set up and monitoring technology throughout the year, as well as login support for 85 locations.
- As an EA she became the primary support for the company's foreign tax preparation, communications and inquiries. These duties were in addition to maintaining her 300 plus client base and resolution work.

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8

Schedule

- Day 1
  - July 19th 11am – 2pm Eastern
  - 10-minute break every hour
- Day 2
  - July 20th 11am – 2pm Eastern
  - 10-minute break every hour
- Day 3
  - July 21st 11am – 2pm Eastern
  - 10-minute break every hour

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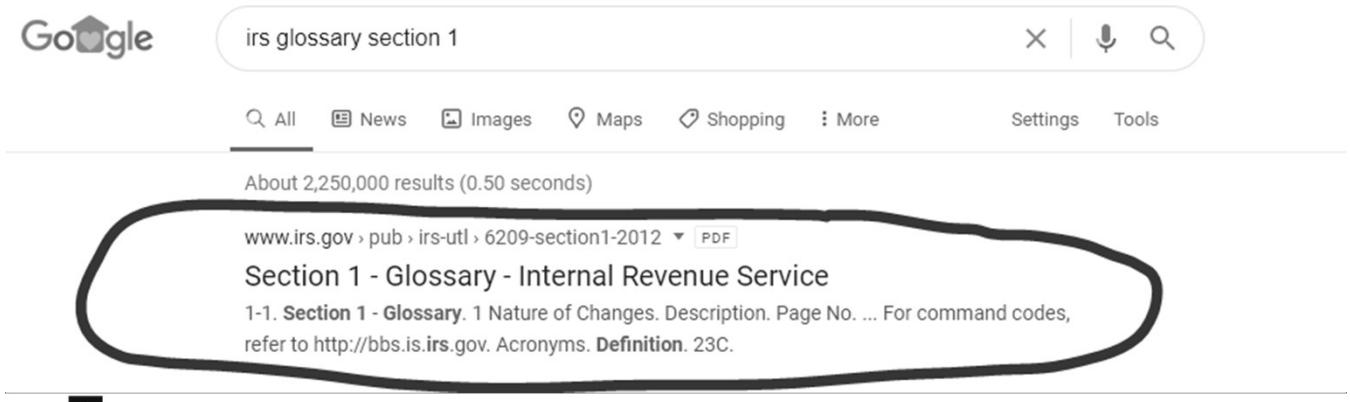
IRS Acronyms

If there is an acronym you do not understand in this presentation Google: "irs glossary section 1"



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Acronyms Used in Presentation

ACRONYM	MEANING	CONTEXT
CSED	Collection Statute Expiration Date	The IRS has a limited time to collect a tax debt, starting 10 years from the date of assessment (plus tolling events). The CSED is the date the debt is no longer legally enforceable.
FOIA	Freedom of Information Act	The Freedom of Information **Act** (**FOIA**) is a law that gives you the right to access information from the federal government.
IRC	Internal Revenue Code	Title 26 of the United States Code (USC). 1st Promulgated in 1939 the IRC is the body of law which codifies all federal tax laws.
IRM	Internal Revenue Manual	The IRM is the primary, official source of "instructions to staff" that relate to the administration and operation of the IRS. It details the policies, delegations of authorities, procedures, instructions and guidelines for daily operations for all IRS organizations
NFTL	Notice of Federal Tax Lien	IRS files a tax lien at the county clerk of office to serve as public notice of the tax debt. Carries Collection Due Process Appeal Rights
OIC	Offer in Compromise	OIC is the debt settlement program offered by the IRS. Acceptable amount is determined by the RCP, therefore each taxpayer will be unique.
PPIA	Partial Pay Installment Agreement	An Installment Agreement (IA) which by its current terms is incapable of full paying the taxes within the CSEDs.
SOL	Statute of Limitations	A statute of limitation is a time period established ***by law*** to review, analyze and resolve taxpayer and/or IRS tax related issues.

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11

Day 2 Presentation Outline

Collection **S**tatutes **E**xpiration **D**ate (**CSED**)

CSED Tolling Events

CSED & Tolling Event Calculations

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Presentation Overview

This class will cover how to obtain the IRS CSED and calculate the CSED from available data (IRS Transcripts) and compare them for accuracy and opportunities.

In addition, this class will also cover how to verify the tolling events have been entered correctly and if they qualify as tolling events. This is one of the fastest growing tax controversy areas in tax resolution. These same methods for contesting CSED tolling events can also be used in bankruptcy cases.

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13

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Layman's Definition

The Statutes are deadlines, defined by law, that affect the taxpayers' debits and credits on their IRS Accounts known as Modules or Periods.

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What Is "Statute Of Limitations"

IRS IRM 25.6.1.2 (10-01-2001)
What is a Statute of Limitation

1. A statute of limitation is a time period established ***by law*** to review, analyze and resolve taxpayer and/or IRS tax related issues.
2. The Internal Revenue Code (IRC) requires that the Internal Revenue Service (IRS) will assess, refund, credit, and collect taxes within specific time limits. These limits are known as the **Statutes of Limitations**. When they expire, the IRS can no longer assess additional tax, allow a claim for refund by the taxpayer, or take collection action. The determination of Statute expiration differs for **Assessment, Refund, and Collection.**

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Collection Statute Expiration Date (CSED)

- The CSED defines how long the IRS has to collect tax for a specific assessment.
- The CSED is calculated as 10 years after the assessment date.
- Most assessments carry their own CSED.
- The CSED can be extended by tolling events.
  - Tolling Event is an event that "extends" a time frame (CSED or Bankruptcy Priority Rule)

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40% Of IRS CSED's With Tolling Are Inaccurate

According to the TIGTA Report: Recalculations of the Collection Statute Expiration Date Were Not Always Accurate from September 16, 2013 Reference Number: 2013-30-098

"Test results of a statistical sample of 75 tax modules from a population of 1,085 with manually recalculated CSEDs showed that 29 (39 percent) of the 75 tax modules contained errors. Twenty-one had inaccurate CSEDs and eight were missing the required documentation to support the CSEDs. Based on the results of our case review from a population of 1,085 tax modules that were manually recalculated between July 1, 2011, and June 30, 2012, we estimate that CSEDs for 260 tax modules were extended longer than they should have been, 43 tax modules were not extended as long as they should have been, and 116 tax modules were unverifiable."

In both reviews over 10% of the cases the tolling events could not be verified.

- 8/75 = 10.6%
- 116/1,085 = 10.6%

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18

Taxpayer Advocate Has Identified A CSED Computer Glitch

According to the NTA Blog from September 7, 2018 the **T**axpayer **A**dvocate **S**ervice (**TAS**) identified a computer glitch that affected a large number of taxpayer's. The TAS identified five buckets of cases affected by these glitches:

- Bucket 1 = multiple pending IAs with only one corresponding rejected IA determination
- Bucket 2 = one pending IA and one approved IA where 52 or more weeks have passed
- Bucket 3 = multiple pending IAs with one approved IA, where 26 or more weeks have passed
- Bucket 4 = one pending IA with one rejected IA, at least 52 weeks later
- Bucket 5 = one pending IA, with no other action on the IA request for at least 52 weeks

The IRS reviewed cases in Bucket 3 and found 83% had miscalculated CSED (In an unpublished report). It is unknown at this time if the IRS has done anything else to fix this problem. According to this article any taxpayer in one of these buckets should contact their local TAS.

https://taxpayeradvocate.irs.gov/news/NTA-blog-IRS-Working-to-Address-Collection-Activity-on-Accounts-with-expired-CSED?category=Tax%20News

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IRS CSED Vs Calculated CSED

- **IRS CSED** – The CSED for each assessment as calculated by the IRS in the IRS IDRS (Computer System).
- **Calculated CSED** – This is the CSED calculated by the tax professional manually and/or using software.
  - Use caution when just relying on software to calculate the CSED.
  - Not all transcript softwares are the same. Softwares have different levels of accuracy.
  - All software-calculated CSEDs should be reviewed manually.

Presentation Note: It also helps to reconstruct the IRS CSED calculations to support your position.

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20

Procedure To Verify IRS CSED

- Calculate the CSED from Account Transcripts and TXMODA if available.
- Verify the CSED with the IRS by calling the IRS.
  - The CSED actually appears on the IRS Account Transcripts in some cases. Examples during the practical exercises.
- If there is a discrepancy try to determine the cause (Makes the appeal easier to present).
- If the IRS CSED matches the calculated CSED determine if the tolling events need to be reviewed.
  - Most tolling events are manually entered in the IRS system and are subject to human interpretation, miscalculations and input errors.
  - As stated in previous slides over 10% of tolling events recorded in the IRS system do not have the required supporting information to make them valid.

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21

After IRS CSED Expires When Does Debt Get Written Off

- Normally the debt is written off within 90 days after the IRS CSED.
- Occasionally the IRS misses the CSED and it just remains on the account.
  - The RSED still applies even if the IRS makes a mistake.
    - Example if a taxpayer makes a payment after the CSED is expired and the IRS does not catch it the taxpayer only has two years to file a claim for refund.
- Currently there is a known issue at the IRS when there are multiple CSEDs for a module. The debt is not written off for the earlier CSED until the latest CSED is expired. Just be aware of this.

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Timing To Appeal CSED

- If a discrepancy exists between the calculated CSED and the IRS CSED or a tolling event has not been recorded properly review the overall case to determine when to start the appeal.
  - If the CSED is appealed too early the IRS may have time to levy or convert the assessment to a judgement before the calculated CSED or the appeal may involve a new tolling event which will extend the CSED.
  - The tax professional should wait at least 90 days after the calculated CSED before notifying the IRS unless the taxpayer is under active levy, but they need to be RSED aware as well.
  - See the examples on subsequent slides.

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Need To Be RSED Aware

Anytime the tax professional is determining the best strategy for a CSED dispute they should consider if there are any refunds or offsets available. The RSED 2-year lookback will usually apply as opposed to the 3-year lookback. If the tax professional delays the CSED challenge the RSED does not change. The claim for refund (or offset) is what determines the claim date. As long as the claim for refund is made within the 2-year lookback period the money can still be refunded or offset.

Presentation Note: This author recommends waiting 90 days after the calculated CSED to dispute it. If there are payments made on the module and the RSED is about to expire on the 2-year lookback for some of those payments the claim for refund and dispute needs to be made before those opportunities expire.

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Calculated CSED Not Expired Yet

- In very few instances should a CSED be reported to the IRS as incorrect prior to the calculated CSED plus 90 days when possible.
- If the tax professional makes the IRS aware of the discrepancy prior to the calculated CSED the IRS may start enforced collection action.
- An exception to this would be if the tolling event needs to be disputed for a bankruptcy filing.

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Calculated CSED Expired & IRS CSED Not Expired

- If there is a small difference between the calculated and IRS CSED (less than a year) and the taxpayer is not under forced collections the tax professional may want to just wait (Sometimes doing nothing is the best solution).
- If the RSED 2-year look back has any payments about to expire that should be taken into account.

- Example if a taxpayer made a payment of $1,000 twenty-three months before the calculated CSED then they only have one month after calculated CSED to file a claim (amended return or penalty abatement).

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Calculated CSED Is Greater Than The IRS CSED

If the tax professional determines the IRS CSED is less than the calculated CSED they are under no requirement to report the discrepancy. The tax professional just needs to be aware of the discrepancy and that the IRS could correct it prior to the CSED expiration date.

Presentation Note: This author has never observed a case where the IRS CSED expired, the debt was written off, and then the IRS determined the CSED was incorrect and reinstated the tax due. This does not mean they cannot reassess just that it would be highly unusual.

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Only Certain Assessments Carry Their Own CSED

5.1.19.2 (04-26-2018)
Transaction Codes that Affect the CSED

1. In addition to Transaction Code (TC) 150 - Tax Assessed, there are certain other TC codes that carry their own CSEDs.
2. Also, there are other TC codes that suspend or extend the expiration date.

5.1.19.2.1 (06-04-2009)
Transaction Codes that Carry Their Own CSED

1. Certain transaction codes (TC) with specific reference numbers carry their own CSEDs, and display them on the Integrated Data Retrieval System (IDRS).
2. A list of these TC codes follows:

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Only Certain Assessments Carry Their Own CSED

Transaction Code	Definition
TC 160	Manually Computed Delinquency Penalty
TC 166	Delinquency Penalty
TC 170	Estimated Tax Penalty
TC 176	Estimated Tax Penalty
TC 180	Deposit Penalty
TC 186	FTD Penalty
TC 234	Daily Delinquency Penalty (if it is the only CSED in the module)
TC 238	Daily Delinquency Penalty
TC 240	Miscellaneous Civil Penalty (all except for Reference Codes 697 and 699)**Caution:** Because of a programming error, TC 240 with penalty reference numbers 680, 681, 682, and 686, posted prior to January 2009, may contain an incorrect CSED on BMF accounts. For collection purposes, TC 240 with reference numbers 680, 681, 682, and 686 has the same CSED as the related tax assessment (TC 290 or TC 300) regardless of the CSED computed on Master File as part of the TC 240.
TC 246	Form 8752 or Form 1065 Penalty
TC 290	Additional Tax Assessment
TC 294	Tentative Carryback Disallowance with Interest Computation Date
TC 298	Additional Tax Assessment with Interest Computation Date
TC 300	Additional Tax or Deficiency Assessment by Examination or Appeals
TC 304	Tentative Carryback Disallowance by Exam with Interest Computation Date
TC 308	Additional Tax or Deficiency Assessment by Examination or Appeals with Interest Computation Date
TC 320	Fraud Penalty
TC 350	Negligence Penalty
TC 340	Restricted Interest (Doc Code 47 and 51 only)

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29

How Are CSEDs For Assessments Not Listed Calculated

As best as I can figure an assessment not listed in the IRM will rely on the underlying assessments calculation.

These are mostly interest and some penalties.

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CSED Tolling Events

- TC 520 Tax Court or IRS Instituted Litigation (suspends CSED)
- TC 520 Bankruptcy (suspends CSEDs)
- TC 520 Collection Due Process (suspends CSED)
- TC 971 Pending Installment Agreement
- TC 971 Terminated Installment Agreement
- TC 480 Offer in Compromise Pending (suspends CSED)
- TC 500 Military Deferment (suspends CSED)
- TC 971 Innocent Spouse
- TC 550 Waiver Extension of Date Collection Statute Expires (extends the CSED to date input)
- TC 550 Manually Adjusted Tolling Events (Listed on next slide)
- TC 488 Installment and/or Manual Billing (extends CSED) (never seen one, not covered)

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Presentation Note: IRS Transaction Code – TC

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550 Manually Adjusted Tolling Events

- Form 900 Tax Collection Waiver
- Assets in Custody of the Court
- Bankruptcy (incorrect CSED computation)
- Judgment
- Taxpayer Assistance Order (TAO)
- Military Deferment
- Offer in Compromise (incorrect CSED computation)
- Wrongful Seizures (not covered in presentation)
- Taxpayer Living Outside the U.S.
- Innocent Spouse
- Other (Collection Due Process)

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Common CSED Tolling Events

Tolling Events	Notes
TC 520 Tax Court or IRS Instituted Litigation (suspends CSED)	For the duration.
TC 520 Bankruptcy (suspends CSEDs)	For the duration plus six-months.
TC 520 Collection Due Process (suspends CSED)	After the CDP if the CSED is shorter than 90 days the CSED is extended to 90 days from the end of the CDP.
TC 971 Pending Installment Agreement	Tolls for the duration and if rejected an additional 30 days.
TC 971 Terminated Installment Agreement	Tolls for 30 days.
TC 480 Offer in Compromise Pending (suspends CSED)	Tolls for the duration plus an additional 30 days if rejected.
TC 500 Military Deferment (suspends CSED)	The CSED is suspended during the taxpayer's military service and for an additional 270 days afterward.
TC 971 Innocent Spouse	The collection period is suspended from the filing of the claim until a waiver is filed, or until expiration of the 90 day period for petitioning the Tax Court, or if a Tax Court petition is filed, when the Tax Court decision becomes final under IRC 7481, plus 60 days in each instance.

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Uncommon CSED Tolling Events

Tolling Events	Notes
TC 550 Waiver Extension of Date Collection Statute Expires (extends the CSED to date input)	Voluntary extension.
TC 550 Manually Adjusted Tolling Events	
TC 550 - Taxpayer out of country continuously for six-months.	Tolls for the duration plus six-months after return.
Taxpayer Assistance Order	Is supposed to toll but usually is not entered.
TC 488 Installment and/or Manual Billing (extends CSED)	(never seen one, not covered)
TC 550 Wrongful Seizures	(never seen one, not covered)

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34

Why Analyze CSED Tolling Events

In the past seven years this author has reviewed hundreds of cases for CSED calculations. A disturbing trend started to appear where tolling events were applied when they did not meet the IRM criteria or an error was made in data entry.

IRS employees have also been caught extending tolling events when they should not have been extended.

Tolling events suspend or extend the CSED since the IRS is barred from collections during the tolling event. Always check if any forced collections occurs during a tolling event. A wage levy started before a tolling event does not stop automatically (except for bankruptcy) when the tolling event begins. A request needs to made with the IRS, but they are usually granted.

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Calculating CSED Tolling Events

CSED tolling events have start and end dates followed by additional tolling days usually to account for appeals of denials or rejections and give the IRS a chance to discover the tolling event has stopped.

Example: If an offer in compromise is submitted on January 1, 2012 and rejected on June 1, 2012 the tolling event tolls the CSED for 152 days plus another 30 days for the appeal for a total of 182 days.

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36

Open Tolling Events

Often when reviewing a CSED one of the tolling events is still pending. Some tax pros calculate the tolling event as if it ends today (or a day in the near future). I call this status an open tolling event. It is common that this happens with Pending IAs which will be discussed at length later.

Use caution if using some of the other transcript software out there as I have seen numerous examples of people posting the CSED keeps changing everyday not realizing there is an open event. It has caused major issues especially when they advise their client the debt will fall off in several months and it doesn't.

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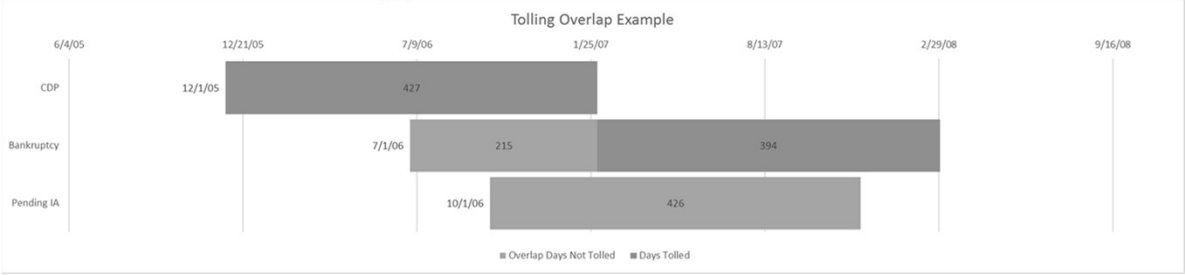
Tolling Event Calculations

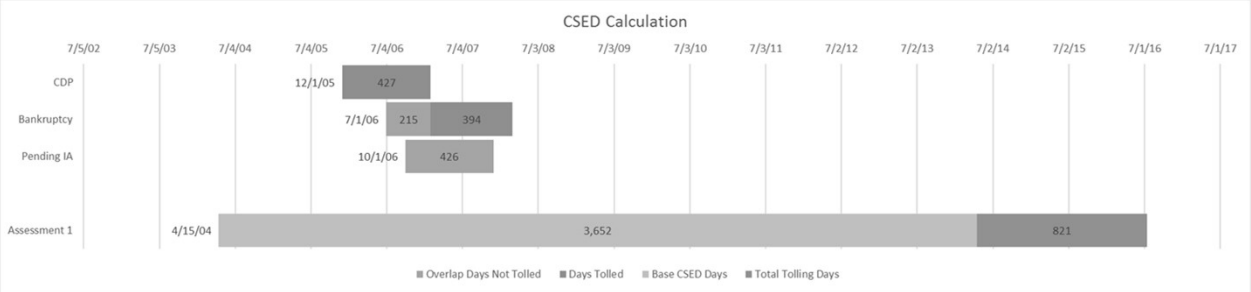


Tolling Event	Start Date	Duration	End Date	Days Tolled	Overlap Days Not Tolled
CDP	12/1/2005	427	2/1/2007	427	0
Bankruptcy	7/1/2006	609	3/1/2008	394	215
Pending IA	10/1/2006	426	12/1/2007	0	426

- If two or more tolling events overlap the days in the overlap are only tolled one time.
- The CDP tolls from the start date until the end date.
- The Bankruptcy only tolls from the end of the CDP until the end date.
- The Pending IA does not toll because it overlaps completely with the previous events.

38

CSED Example



Tolling Event	Start Date	Duration	End Date	Days Tolled	Overlap Days Not Tolled
CDP	12/1/2005	427	2/1/2007	427	0
Bankruptcy	7/1/2006	609	3/1/2008	394	215
Pending IA	10/1/2006	426	12/1/2007	0	426
Assessment 1	4/15/2004	1,462	4/15/2014	821	641

39

IRS Transaction Closing Codes

IRS Transaction closing codes define how the transaction is treated. These codes do not show up on the IRS Account Transcript. Closing codes are included in the TXMODA transcript.

For Example: 971 Pending installment agreement may or may not toll depending on the closing code. (cc 043 indicates it is a Pending IA that tolls the CSED)

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40

Tolling Events That Only Apply To One Spouse

Certain tolling events can apply to one spouse and not the other. This is fairly common. In some instances one spouse can negotiate with the IRS independent of the other spouse or even file bankruptcy without their spouse.

Often times the IRS will create Separate Assessments for the MFJ taxpayers, but not always. Best practice is to always request Separate Assessment transcripts to avoid surprises.

Always confirm that the tolling event applies to the taxpayer you are representing and not just their spouse (or former spouse). This is very common so be on the look out!

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41

Processes Used To Verify Tolling Events

IRS Account Transcripts – Obtained from PPL, e-Services or Get Transcript.

TXMODA Transcript – Obtained by calling PPL, ACS, or RO (FOIA if all else fails).

MULTICSED Transcript – Never seen one but they do exist.

PACER - **P**ublic **A**ccess to **C**ourt **E**lectronic **R**ecords (Federal Courts)

- Bankruptcy Court
- District Court

Tax Court Search

- https://www.ustaxcourt.gov/find_a_case.html

FOIA - **F**reedom **O**f **I**nformation **A**ct Request

Taxpayer's own paperwork – Any record in the taxpayer's possession which can confirm the date of an event such as IRS letters, passport, military orders, etc…

- I have seen the dates on IRS letters not match what was on the transcript.

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42

IRS Account Transcripts

The IRS Account Transcripts are the primary reference a tax professional should use when manually calculating the CSED. If a Separate Assessment is present they should also be used in the calculations. If a Separate Assessment exists the spouses may have different CSEDs.

Remember the account transcript by themselves are usually not considered evidence in tax court. From Grauer v. Commissioner, T.C. Memo. 2016-52 (Mar. 22, 2016) - **As the court noted, the IRS's "only evidence that such an agreement exists is an account transcript that [it] concedes is inaccurate and an indecipherable and unconvincingly explained collection of numerical codes."**

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43

Grauer v. Commissioner, T.C. Memo. 2016-52 (Mar. 22, 2016)

- The important takeaway from this case was the taxpayer just had to prove the IRS attempted to collect after the ten years. After that the burden of proof shifted to the IRS to prove they had valid statutory reason to extend or toll the CSED.
- The taxpayer does not need to disprove the tolling event. The IRS needs to prove it and the taxpayer can challenge their evidence. The transcript was not considered evidence in this case as stated in the previous slide.
- This also brings into play not "Did the tolling event happen?", but instead "Can the IRS prove the tolling event happened?"
- The TIGTA report mentioned earlier determined that 10.6% of tolling events reviewed were not properly documented to justify tolling.

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TXMODA Transcripts

The TXMODA transcripts have more detail than regular account transcripts. The TXMODA shows the IRS Closing Codes for certain IRS Transaction codes. The TXMODA shows the CSEDs, but use caution as certain screen shots only show one CSED (Usually the oldest one) which can cause confusion.

TXMODA transcripts can be difficult to acquire. It is possible TXMODA can still be faxed. (This author believes the TXMODA cannot be sent to the SOR due to technical restrictions).

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45

MULTICSED Transcripts

The MULTICSED Transcript and Listings are worth mentioning

5.19.10.4.7.1 (04-20-2022) MULTICSED Transcript and Listings

According to the 2012 TAS Annual Report

TAS's Research of CSED Issues Has Revealed Additional Problems for Taxpayers Who Have Multiple Assessments for the Same Tax Year or Module. TAS has continued to research CSED problems and has found the IRS does not adjust account modules with multiple assessments and CSEDs when the CSED expires for the earlier assessment.

The MULTICSED Transcript was created from the TAS recommendations. I have never seen one, but they exist.

Not every taxpayer has one in the system.

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46

Public Access to Court Electronic Records (PACER)

Public Access to Court Electronic Records (PACER) is an electronic public access service that allows users to obtain case and docket information online from federal appellate, district, and bankruptcy courts. PACER is provided by the Federal Judiciary in keeping with its commitment to providing public access to court information via a centralized service.

Tax Court Docket Inquiry:
https://www.ustaxcourt.gov/UstcDockInq/Default.aspx?PartyName

Bankruptcy Inquiry:
https://pcl.uscourts.gov/pcl/pages/search/findBankruptcy.jsf

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47

IRS FOIA Request

FOIA requests can be used to obtain IRS records that are not available from other sources. Occasionally a FOIA needs to be used to obtain the TXMODA transcript, but often times they can be obtained under 2848 through PPL, ACS or the RO.

IRS FOIA Instruction Page:
https://www.irs.gov/privacy-disclosure/freedom-of-information-act-foia-guidelines

IRS Online FOIA Request:
https://www.foia.gov/request/agency-component/2f6bdfbe-aa71-4dd6-ac88-3d6587fafa83/

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48

Taxpayer's Records

Any record the taxpayer has in their possession to substantiate or disprove a tolling event.

Under each tolling event later in this presentation a list of supporting example documents will be listed. This is not an all inclusive list.

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49

Tolling Event Section

- Each tolling event is reviewed and best practices for each are listed.
- This presentation will not cover a couple of the rare/obscure tolling events that this author has not observed:
  - TC 488 Installment and/or Manual Billing (extends CSED) (never seen one, not covered)
  - TC 550 Wrongful Seizures (not covered in presentation)

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50

Challenge Calculating Tolling For Tax Court, Bankruptcy & CDP

- Tax Court, Bankruptcy (including Assessment Reduced To Judgement) and CDP are indicated on the transcript with the TC 520 Bankruptcy or other legal action filed.
  - CDP will have TC 971 Collection due process request received timely.
  - It is usually impossible to distinguish between a bankruptcy, tax court federal court from the account transcript alone. Occasionally a bankruptcy payment or transaction code will be listed but only occasionally.
    - Examples of bankruptcy TC Indicators:
      - 670-Payment Undesignated Bankruptcy (form) (year & quarter)
      - 680-Payment of interest only Undesignated Bankruptcy
      - 690-Payment of penalty only Undesignated Bankruptcy
      - 971-Bankruptcy notification received
      - 971-Full bankruptcy discharge
      - 971-Partial bankruptcy abatement

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51

Court Action & Bankruptcy Tolling

- These two tolling events will be covered together since they share the same transaction code.
  - The CDP also shares this code but has different procedures and has it's own section.
- Court Action, Bankruptcy, and **C**ollection **D**ue **P**rocess Hearing (CDP) all use the TC 520 Bankruptcy or other legal action filed transaction code.
- Bankruptcy tolls for an additional six-months after it is concluded. Tax Court does not have any additional tolling.
- The IRS Insolvency Unit struggles to accurately enter information in regards to bankruptcy.
- Remember a Chapter 13 Bankruptcy can toll for 5 years (and in some cases 7 years).

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52

Court Action/Bankruptcy Tolling Codes

Court Action or Bankruptcy – start of tolling

- 520 Bankruptcy or other legal action filed

Court Action or Bankruptcy– end of tolling

- 521 Removed bankruptcy or other legal action
  - Bankruptcy plus six months
  - No additional tolling for Tax Court

Reversed Tax Court or Bankruptcy – event reversed no tolling

- 522 Removed bankruptcy or other legal action

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53

Court Action & Bankruptcy Validation

- Court Action and Bankruptcy information can be found in PACER.
  - See example later in presentation.
- CDP hearings are not in PACER unless the taxpayer exercises their Tax Court rights. The Tax Court portion will be in PACER.
- Taxpayer's records – the taxpayer should have filing dates and discharge dates in their paperwork to review or obtained from their lawyer.
- Tax Court Cases can be searched through the US Tax Court Find a Case Page
  - https://www.ustaxcourt.gov/find_a_case.html

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54

Which Court Actions Toll The CSED?

- Under IRM 5.1.19 there are two defined court actions that toll
- 5.1.19.3.2 (02-07-2020) Judgment/Litigation
  - (1) Per IRC 6502(a) ***a court action brought against the taxpayer for the collection of tax*** prior to the expiration of the collection statute extends the period to collect until the tax liability or judgment against the taxpayer is satisfied or becomes unenforceable.
- 5.1.19.3.2.2 (05-19-2016) Suit to Reduce Assessments to Judgment
  - (1) A suit to reduce the assessments to judgment must be filed prior to the expiration of the CSED to suspend the collection period. ***The filing of a suit will suspend the collection statute during litigation.*** For more information see IRM 5.17.4.7, Suit to Reduce Assessments to Judgment.

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Which Tax Court Actions Toll The CSED?

Tax Court Case that results from **Collection Due Process (CDP) Hearing**

Tax Court Case that results from **Innocent Spouse Claim**

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56

(Ref) Bankruptcy

5.1.19.3.1.1 (07-19-2012) Transaction Codes for Bankruptcy

1. A TC 520/521 suspends a CSED by the amount of time beginning on the TC 520 (posted Cycle 8624 or later) transaction posting date and ending on the associated TC 521 posting date, plus six months.
2. A TC 520 with a closing code 60 through 67, 83, or 85 through 89 systemically suspends the CSED unless a TC 550 (new CSED) is posted with a later transaction date. For more information see IRM 5.17.8.28, Effect of Bankruptcy on the Limitation Period for Assessment and Collection.

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Unique Bankruptcy Issues

- Married taxpayers and former spouses with joint tax liabilities can be difficult to evaluate especially in community property states.
  - When evaluating bankruptcy tolling confirm the taxpayer you represent filed the bankruptcy and not their spouse or former spouse.
  - There have been instances where the tax should have discharged in bankruptcy but did not. It might be worth a conversation with the taxpayer's attorney. In some cases they can go back to the court.
- This author gets numerous calls about E&O cases in reference to bankruptcies filed too early (prior to the bankruptcy discharge dates). Some tax professionals assist clients with their E&O claims against their bankruptcy attorney. This is an accepted resolution method.
- The TC 550 Manual CSED adjustment "Assets in the custody of the court" applies when the bankruptcy is discharged, but some of the assets remain in the custody of the court (Never seen one).

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58

PACER Example

- In the following example this author searched PACER for my taxpayer's SSN (shown as Santa Claus 999-00-9999). (Used a real case and changed name).
- Best Practice is not to search the specific court query site but search overall query.
- For Bankruptcy opt to search for SSN (with or without dashes it searches both ways).
- PACER charges $.10 (one dime) per page on query results.
- This query cost me $.20 (I actually downloaded the complete case summary – 34 pages and was charged $3.00, some docs cap at $3.00).
  - By Judicial Conference policy, fees are waived when usage is $30 or less for the quarter.

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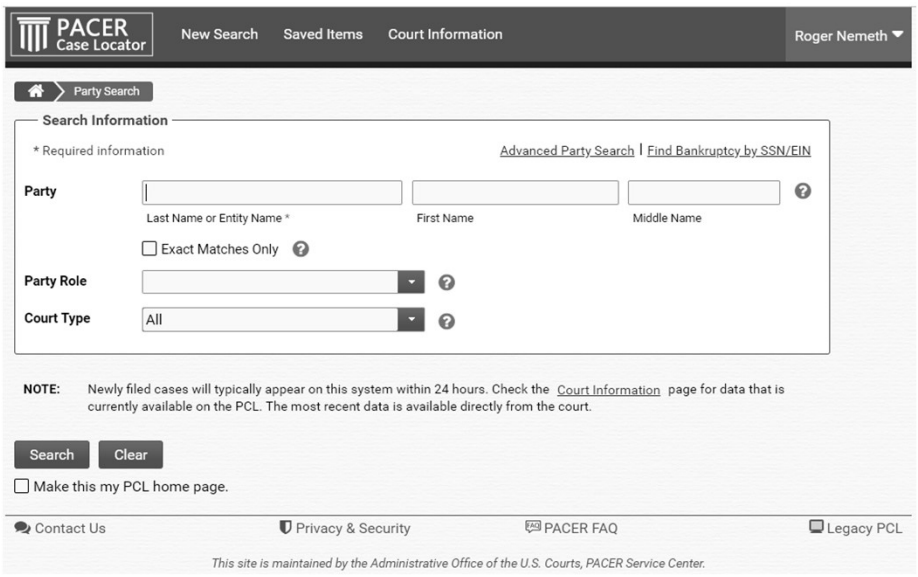
59

PACER Example



60

PACER Example

PACER Case Locator | New Search | Saved Items | Court Information | Roger Nemeth

Party Search > Bankruptcy Search > Search Results

Search Criteria: Party Search; SSN: 999-00-9999; Jurisdiction Type: Bankruptcy
Result Count: 1

Icon Legend

Party Name	Case Number	Case Title	Court	Date Filed	Date Closed
Claus, Santa (db)	1:2013bk69999	Santa Claus	Georgia Northern Bankruptcy Court	06/24/2013	08/26/2015

PACER Service Center — **Receipt** 06/10/2019 14:28:53 910378096

User	nemethrw
Client Code	
Description	All Court Types Party Search All Courts; SSN 999-00-9999; All Courts; Jurisdiction BK; Page: 1
Billable Pages	1 ($0.10)

Print Receipt

Icon Legend
- Save search to Saved Searches
- Sort search results
- Choose columns to display
- Refine the current search
- Download search results
- Save case to Saved Cases
- Remove case from Saved Cases

Contact Us | Privacy & Security | PACER FAQ | Legacy PCL

This site is maintained by the Administrative Office of the U.S. Courts, PACER Service Center.

61

PACER Example

520	Bankruptcy or other legal action filed	06-24-2013	$0.00
706	Credit transferred in from 1040 199912	04-15-2005	-$2,336.67
706	Credit transferred in from 1040 199912	04-15-2005	-$2,500.00
706	Credit transferred in from 1040 199912	04-15-2005	-$2,500.00
736	Interest credit transferred in from 1040 199912	04-15-2005	-$49.44
706	Credit transferred in from 1040 199912	04-25-2005	-$2,500.00
583	Removed lien	02-14-2014	$0.00
971	Full bankruptcy discharge	11-15-2013	$0.00
604	Write-off of balance due	03-10-2014	-$12,56[illegible]
971	No longer in installment agreement status	03-10-2014	$0.00
521	Removed bankruptcy or other legal action	11-15-2013	$0.00

13-63788-crm Santa Claus
Case type: bk **Chapter:** 7 **Asset:** No **Vol:** v **Judge:** C. Ray z-Mullins
Date filed: 06/24/2013 **Date of last filing:** 08/26/2015
Debtor discharged: 11/15/2013
Date terminated: 08/26/2015

Case Summary

Office: Atlanta
County: FULTON-GA
Fee: Paid
Origin: 2
Previous term: 03/28/2014

Joint: n
Original chapter: 7
Current chapter: 7

Filed: 06/24/2013
Terminated: 08/26/2015
Debtor discharged: 11/15/2013
Reopened: 03/20/2015
Converted:
Debtor dismissed:
Confirmation hearing:

Debtor disposition: Standard Discharge

Nature of debt: consumer
Flags: DISCHARG, CLOSED

Trustee: Office of the United States Trustee **City:** Atlanta **Phone:** 404-331-4437 **Email:** ustpregion21.at.ecf@usdoj.gov
Trustee: William J. Layng Jr. **City:** Atlanta **Phone:** (404) 276-4749 **Fax:** 678-669-2115 **Email:** blayng@wlaynglaw.com

Party 1: Claus, Santa (Debtor)
SSN / ITIN: xxx-xx-9999

Atty: Evan M. Altman **Represents party 1:** Debtor **Phone:** (770) 394-6466
Fax: (678) 405-1903
Email: evan.altman@laslawgroup.com

Atty: James D. Key **Represents party 1:** Debtor **Phone:** (770) 953-8174
Location of case files:
Volume: CS1
The case file may not be available.

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62

Collection Due Process Hearing (CDP)

CDP shares the TC 520 Bankruptcy or other legal action filed.

CDP has an additional TC of 971 Collection due process request received timely.

The additional tax court component could be a separate event or combined into the original CDP.

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63

CDP Tolling Codes

- CDP begins – start of tolling
  - 520 Bankruptcy or other legal action filed
  - 971 Collection due process request received timely
- CDP ends – end of tolling (Extend CSED to 90 days after CDP if it expires in less than 90 days)
  - 521 Removed bankruptcy or other legal action
- CDP reversed – event reversed no tolling
  - 522 Removed bankruptcy or other legal action

Presentation Note: If the TC 520 and TC 971 Collection due process request received timely have different dates less than a week apart use the 520 date. If it is greater than a week you will have to contact the IRS to determine what happened.

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64

CDP Validation

- FOIA is the best source to determine what happened in the CDP.
- PACER can be used, but only if the taxpayer exercises the Tax Court rights allowed by the CDP.
- Taxpayer paperwork can also be used if the taxpayer retained the records, but remember this may not be complete.
- The next slide will cover CDP or Equivalency Hearing.

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CDP or Equivalency Hearing

- The tax professional should also review if the request for CDP was actually filed timely.
- A CDP is a tolling event, but an Equivalency Hearing is not. This author has witnessed several instances of the request for CDP being received by the IRS after the 30 day deadline and being entered as timely filed.
- TC 971 Collection due process Notice of Intent to Levy – issued on the account transcript indicates the date on the 1058 Letter or LT11. (Not sure if the NFTL Letter 3172 shows on the transcript).
- If there are more than 30 days between the TC 971 Collection due process Notice of Intent to Levy and the 520 Bankruptcy or other legal action filed (accompanied by the 971 Collection due process request received timely) then it is not a tolling event it is just an Equivalency Hearing.

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66

(Ref) CDP Hearing

5.1.19.3.3 (04-26-2018) Collection Due Process (CDP)

1. The CSED is suspended from the date the Service receives a timely filed request for a CDP hearing to the date the taxpayer withdraws their request for a CDP hearing or the date the determination from Appeals becomes final, including any court appeals. See IRC 6330 (e)(1).
2. If less than 90 days of the statute of limitations remains when the determination becomes final, the statute of limitations is extended to equal 90 days. The collection statute is not extended for equivalency hearings. See IRC 6330 (e)(1).
3. For more information see IRM 5.1.9.3.6, Suspension of Collection Statute of Limitations, and Treas. Reg. § 301.6330–1(g)(3), ex. 1.

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67

Pending Installment Agreements

- Pending IAs are extremely challenging to determine accurate tolling.
  - The IRS recently implemented a closing code for “rejected installment agreement”, but it is difficult to distinguish between a reversal and a rejection.
  - This author has reviewed multiple TXMODAs and have trouble finding the rejected date in there as well.
  - Often times the IRS Pending IAs should never have been applied because they do not meet the criteria.
  - As mentioned earlier the TAS identified 5 Buckets of Pending IA scenarios that are incorrectly entered in the system causing erroneous CSED.

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68

Pending IA Tolling Codes

Pending IA – start of tolling

- 971 Pending installment agreement

Established IA – end of tolling

- 971 Installment agreement established

Rejected IA – end of tolling (***additional 30 days are included already do not add***)

- 972 Removed installment agreement (A 972 dated at least 30 days after the pending IA usually indicates a reversal. This is recent).

Reversed Pending IA – event reversed no tolling

- 972 Removed installment agreement

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69

(Ref) Pending IA

5.1.19.3.5 (04-26-2018) Installment Agreements

5. The Service is prohibited from levying, and the CSED is suspended under these provisions:
   a. While the request for installment agreement is pending with the Service,
   b. For 30 days immediately following rejection of the installment agreement request, and
   c. If an appeal is requested within the 30-day period, during the period while the rejection is being considered in Appeals.
   d. During the 30 days after the date of termination, and
   e. If an appeal is requested within the 30-day period, during the period while the termination is being considered in Appeals

6. …

Note: The CSED is not suspended while an installment agreement is in effect.

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70

What Qualifies A Pending Installment Agreement As A Tolling Event

IRS IRM 5.14.1.3 (09-22-2021) Identifying Pending, Approved and Rejected Installment Agreement Proposals on IDRS

4. Taxpayers need to provide specific information for installment agreement requests to be processed. Also, if the information in (a) through (f) below is provided, but it is determined that the agreement request was made to delay collection action, accounts should not be identified as being in pending installment agreement status. See IRM 5.14.3.3, Installment Agreement Requests Made to Delay Collection Action. To identify accounts as "pending" installment agreements, taxpayers must:
   a) Provide information sufficient to identify the taxpayer: generally, the taxpayer's name and taxpayer identification number (TIN). If a taxpayer furnishes a name, but no TIN, and the taxpayer 's identity can be determined, then pending status should be identified.
   b) Identify the tax liability to be covered by the agreement.
   c) Propose a monthly or other periodic payment of a specific amount.
   d) Be in compliance with filing requirements, see IRM 5.14.1.4.2, Compliance and Installment Agreements.

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71

IRS Personnel Abusing Pending Installment Agreements

This author participated in a case recently where a revenue officer denied a Pending IA that was on the transcript for four years. This extended a CSED that was about to expire by four years.
The Notice of Intent to Levy was sent 2 weeks after the Pending IA input on the transcript.
The client was also levied during the tolling event.
The tax professional filed with Taxpayer Advocate and advised the client wanted their levied funds back or remove the pending IA Tolling Event and let the remainder of the assessed amount drop off. They opted for writing off the balance due to the CSED.

In the time since I first gave this webinar two years ago I have personally observed over a dozen instances of this type of abuse.

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72

Pending IAs That Are Not Accepted Or Rejected Do Not Toll

Pending IAs are a challenge. In my experience if the Pending IA is not closed it does not toll. Often times someone at the IRS places the Pending IA on the account, but nobody ever follows up. It is never accepted or rejected and it just hangs. I have seen CSED's expire with open Pending IAs on them.

Occasionally multiple pending IAs are on a transcript some with endings and some with out. FOIA is the best method here as well as reconstructing the CSED to determine how the IRS calculated the CSED.

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73

Reasonable Time For A Pending IA

If an account has an unreversed pending IA open for more than 14 weeks, if reversing transaction was input prior to January 21, 2016; 26 weeks if the reversing transaction was input on or after January 21, 2016 and there is no evidence of an IA request.

5.19.1.6.4.7 (09-26-2018)
Pending IA Criteria

Note:
A TC 972 AC 043 will systemically reverse TC 971 AC 043 in 26 cycles if an account does not go to ST 60, unless the module is in ST 26. This systemic reversal may take place within 26 cycles if a TC 520 (except cc 76-77), TC 530, TC 480, or TC 780 posts to the module.
ST 26 on TXMODA indicates an RO has been assigned to the case.

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74

IA MUST be Accepted or Denied in 26 Weeks

- IRS defines a Cycle as 1 week (really old computer programming).
- 26 cycles = 26 weeks = 182 days = six months
- For Pending IA without an RO for 26 weeks (14 weeks if before January 21, 2016) the pending IA should be reversed for tolling purposes per the IRM.

- **EXCEPTIONS for Installment Agreements (IAs) input by Revenue Officers**

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75

Was/Is An RO Assigned

If the MF Status is status 26.

5.19.1.3.2.4 (09-26-2018) Revenue Officer (RO) Assignment

1) Revenue Officer (RO) assignment: If the account is in ST 26 and assigned to an RO or Group, proceed after noting the Exception information below:

```
                    MFT>30  TX-PRD>200112   PLN-NUM>    NM-CTRL>
09221-354-10011-3<DLN                                    BOD-CD>SB CLIENT-CD>W
                                          MF-XTRCT-CYC>20173805 SC-REASON-CD>FF
SC-STS>53  MOD-BAL>         297,194.53  CYC>201738
MF-STS>26  MOD-BAL>         297,194.53  CYC>20142805 TODAYS-DT>10/02/2017
                                  ARDI-CD>2   PRIMARY-LOC>8726
----------------------------                                        PDC-IND>00
ASED>12152006 FRZ>T   -    |
CSED>07162018 INTL>        | CAF>1 FMS-CD>1          LIEN>5
RSED>10152005              | NAICS-CD>541600
----------------------------
                                                          BWI>2
LEVY-971-IND>1
CS-CTRL-INFO>NO CASE CONTROLS
```

76

Master File Status History Data

```
--------------------------MASTER FILE HISTORY SECTION------------------
MF-STS   DATE       STATUS-AMOUNT   CYC              CCNIP-SELECT-CD
    04  05262008  EXT-DT>20081015  20082008
    02  03022009 IND>   NTC-AO>12  20091008                 52
    02  03232009 IND>1  NTC-AO>12  20091008                 52
    03  04272009 IND>7  NTC-AO>12  20091508                 52
    03  06212010 IND>7  NTC-AO>22  20102308                 23
    03  06282010 IND>8  NTC-AO>22  20102408                 23
    06  06222011             0.00  20112608
    21  01092012        42,503.26  20115208
    58  02132012        42,503.26  20120505
   21  03252013        42,503.26  20131005
   58  03252013        42,503.26  20131005
   60  04102013            0.00  20131505
   22  09212015        41,676.26  20153505
```

77

(Ref) Examples From IRS IRM 5.14.1.3(12) (09-22-2021)

SITUATIONS THAT DO RESULT IN IDENTIFICATION OF PENDING INSTALLMENT AGREEMENTS

Example:
(1) A taxpayer calls the IRS, provides her name, social security number (SSN), identifies the outstanding liability (or balances due), is in compliance with all filing requirements, fits streamlined installment agreement criteria and states she wants to pay $500 per month. If the $500 proposed payment meets the minimum payment required under the Streamlined Criteria and the installment agreement can be immediately closed, do not request a TC 971 AC 043. If the payment does not meet the minimum required payment, the taxpayer can't make the minimum payment required for Streamlined criteria, and additional information will need to be secured, input the TC 971 AC 043.

Example:
(2) A taxpayer wants to make payments. RO completes Collection Information Statement (CIS) including the taxpayer's name and SSN and tells the taxpayer $500 per month is appropriate. The taxpayer is in compliance with filing requirements. The taxpayer verbally agrees to the payment amount.

78

(Ref) Examples From IRS IRM 5.14.1.3(12) (07-16-2018)

SITUATIONS THAT DO NOT RESULT IN IDENTIFICATION OF PENDING INSTALLMENT AGREEMENTS
Example: (1) A revenue officer evaluates a taxpayer's CIS. The taxpayer's name, social security number and balances due are all known and/or identified. The revenue officer informs the taxpayer that a $1500 per month installment agreement is appropriate. There is no response from the taxpayer.
Example: (2) A revenue officer mails a Form 433-D, Installment Agreement, (with the taxpayer's name, SSN and balances due listed) to a taxpayer. The Form 433-D Installment Agreement, provides a payment amount based on an analysis of the taxpayer's CIS. No response is received by phone, FAX, e-mail or other means of communication from the taxpayer.
Example: (3) A taxpayer who knows he owes taxes tells his employer to send $500 per month of his paycheck to the IRS. The taxpayer does not communicate with the IRS. The taxpayer's employer sends $500 per month referencing the taxpayer's SSN. (Note: if $500 per month is being received, contact should be attempted prior to taking collection action).
Example: (5) A taxpayer wants to make payments on an installment agreement. The RO completes a CIS including the taxpayers name and SSN. RO tells the taxpayer $500 per month appears to be an appropriate amount for an installment agreement, but the taxpayer is not in compliance with filing his Forms 1040 for the last two years. The taxpayer states that his accountant is away, and that the returns, which are complicated, will take some time to prepare. The revenue officer requests that the taxpayer submit original, signed returns within 60 days, along with a $500 payment (based on the financial statement received). In addition, the revenue officer requests that a payment of $500 be received within 30 days. These requests are made in accordance with the procedures provided in IRM 5.14.3.2, Setting Deadlines and Receiving Payments, and IRM 5.1.10, Taxpayer Contacts.

79

(Ref) Accepted & Rejected IAs

5.14.1.3 (09-22-2021)

Identifying Pending, Approved and Rejected Installment Agreement Proposals on IDRS

(10) The following TCs) and ACs will be input on ALL taxpayer modules containing TC 971 AC 043 to indicate acceptance or rejection of proposed agreements:

a) For approved agreements: request that TC 971 AC 063 be input to IDRS on ALL taxpayer modules. **Note:** Agreements approved on ICS systemically input the TC 971 AC 063 to IDRS, so no action is necessary for those agreements.

b) For Rejected Proposals: request reversal of TC 971 AC 043 forty-five (45) days after the rejection is communicated to the taxpayer, unless a timely appeal is received. The date of the reversing transaction (TC 972 AC 043) should be thirty (30) days from the date the rejection was communicated to the taxpayer.

c) For Appeals: during appeals, TC 971 AC 043 remains on all modules. If Appeals sustains a rejection, input TC 972 AC 043 thirty days (30) after a rejection is communicated to the taxpayer. If Appeals grants an installment agreement, follow the procedures above for approved agreements.

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80

Validate A Pending IA

- Complete a FOIA request for the Pending IA in question. Ask for all documentation in regards to the Pending IA to include all notes in the IRS system as well as any written documentation or forms submitted by the taxpayer.
- If the pending IA was initiated by Examinations they are required to send a Form 3177 *Notice of Action for Entry on Master File* to Collections. Apparently, Exams is unable able to input the Transaction Codes necessary. The Form 3177 should have enough information to establish the Pending IA as valid.
- Verify from the FOIA information that the IRS documented the requirements as specified in IRM 5.14.1.3 specifically the proposed payment amount and that the taxpayer was compliant at the time of the request for IA.

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81

Terminated Installment Agreements

- Terminated installment agreements are fairly straight forward. A terminated installment agreement tolls the CSED for 30 days accounting for the time to file an appeal and then if appealed the time of the appeal.
- The TC 971 No longer in installment agreement status indicates this event.
- Since this event only tolls 30 days there is not a lot of opportunity here to shorten the CSED.
- There is one example this author reviewed that appealing this type of tolling event was warranted. Client was levied over $10,000 just one month before CSED. A case review showed there were seven terminated installment agreements with a new agreement established within days. The taxpayer advised he had been in an installment agreement for several years and occasionally he had to call and renegotiate the payment amounts. He never defaulted. 7 * 30 = 210 days of tolling. Taxpayer Advocate was able to get his levied funds back since this should not have tolled.

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82

(Ref) Terminated Installment Agreements

5.1.19.3.5 (04-26-2018) Installment Agreements

8. The Job Creation and Workers Assistance Act of 2002, effective March 9, 2002 amended IRC 6331(k)(3) and reinstated the same CSED suspensions as described above during the time that a levy is prohibited for both pending offers and installment agreements, and terminated installment agreements. This amendment suspends the CSED for the number of days on or after March 9 that an installment agreement is pending, during the 30 days to appeal the rejection, during a timely-filed appeal of the rejection, during the 30 days to appeal the termination, or during a timely-filed appeal of the termination.

Example:

An installment agreement is terminated on March 4, 2002. March 4, 5, 6, 7, and 8 would not be suspended. The 30-day period for appealing the termination starts on March 5 and ends on April 3. Of that 30-day period, the collection statute would be suspended starting on March 9 through and including April 3. If the taxpayer requests an appeal on or before April 3, then the collection statute will be suspended until Appeals sends the taxpayer a letter giving its decision.

Note:

An installment agreement is deemed terminated on the 60th day after the date of the CP 523 or Letter 2975, unless the taxpayer requests a CAP hearing challenging the proposed termination during the 30 days after the date of the notice

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83

Pending Offer In Compromise

- Pending OIC's are pretty straight forward. The CSED is tolled from the time the valid offer is received until the determination.
- If rejected, an additional 30 days is added plus any time for the appeal.
- If the OIC is not submitted correctly it will be reversed.
- If the IRS has not made a determination within two-years the OIC is approved.
  - 5.8.8.12 (08-31-2018) 24-Month Mandatory Acceptance under IRC § 7122(f)
- The CSED is not tolled after an accepted.

Presentation Example: Taxpayer with one year on the CSED (only one assessment) submits an OIC that is later accepted. Taxpayer completes the offer successfully and pays money due for offer. Two years after OIC is accepted taxpayer does not stay compliant and the IRS and defaults the offer. Can the IRS add the tax debt back?

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84

Pending OIC Tolling Codes

Pending OIC – start of tolling
- 480 Offer in compromise received

Accepted OIC – end of tolling
- 780 Offer in compromise accepted

Denied OIC – end of tolling plus 30 days
- 481 Denied offer in compromise

Withdrawn OIC – Duration of event with no extra days.
- 482 Offer in compromise withdrawn

Reversed OIC – Event reversed no tolling.
- 483 Removed offer in compromise

Terms not met after acceptance
- 781 Offer in compromise terms not met (Balance will be reinstated if CSED not expired)

Reverse an accepted OIC in error
- 782 Corrected offer in compromise

Successfully completed terms of OIC (including the 5 year compliance period)
- 788 Collateral conditions completed for OIC

85

Accepted OIC Does Not Toll CSED

- An OIC tolls for the entire duration during bankruptcy tolling for the 240 –Day Rule.
- Example: If there is one year left on a CSED and an OIC is submitted and accepted what happens if the taxpayer does not comply with the terms two years after OIC is accepted?
  - Answer. The CSED is expired since there was only one year remaining when the OIC was filed. Once accepted the tolling stops and the CSED starts running again.
  - IRS IRM 5.19.7.15.1(2) (07-09-2020) Reinstating Previously Written Off Tax Periods (Next slide)

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Reinstatement Of Balance Due If OIC Defaulted

5.19.7.15.1(2) (07-09-2020) Reinstating Previously Written Off Tax Periods

Each previously written off tax period should be analyzed to determine if the CSED has expired.

If	Then
The tax period was previously written off via TC 608	Do not reinstate the tax liability.
The CSED has expired	Do not reinstate the tax liability.
The CSED has not expired and tax period was written off via TC 971 AC 032	Reinstate the tax liability.
The tax period was full paid	Do not reinstate the tax liability.

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Validation of Offer in Compromise

- FOIA request is the best way to validate the start and end of an OIC.
- Taxpayer's paperwork and recollection would be the secondary validation.

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88

(Ref) Pending Offer In Compromise

5.1.19.3.4 (04-26-2018) Offer In Compromise

4. The Service is prohibited from levying and the CSED is suspended under the following provisions:
   a. While an offer is pending with the Service,
   b. For 30 days immediately following rejection of the offer for the taxpayer to appeal the rejection, and
   c. If an appeal is requested within the 30 days, during the period while the rejection is being considered in Appeals.

CSED extensions for the period of time "while any installment remains unpaid" and "for one additional year thereafter" are eliminated. No days are suspended before December 31, 1999, or after December 20, 2000.

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89

Innocent Spouse

- Innocent spouse can be a tricky tolling event.
- Innocent spouse can be part of a CDP.
- An innocent spouse claim can also go to tax court (which would be a separate Tax Court tolling (possibly) but it does add 60 days at the end of that Tax Court proceeding).
- Innocent spouse is also listed under the TC 550 IRS can collect until (date) manual tolling events.

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Innocent Spouse

Innocent Spouse– start of tolling

- 971 Innocent spouse claim received

End of tolling is the earlier of the following:

- The waiver is filed (possibly TC 971 Innocent spouse balance cleared)
- or until the expiration of the 90-day period for petitioning the Tax Court
- If a Tax Court petition is filed, when the Tax Court decision becomes final, plus, in each instance, 60 days.

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91

Form 870 (Rev. March 1992)

Department of the Treasury—Internal Revenue Service

Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment

Date received by Internal Revenue Service

Names and address of taxpayers *(Number, street, city or town, State, ZIP code)*

Social security or employer identification number

Increase (Decrease) in Tax and Penalties

Tax year ended	Tax	Penalties		

(For instructions, see back of form)

Consent to Assessment and Collection

I consent to the immediate assessment and collection of any deficiencies *(increase in tax and penalties)* and accept any overassessment *(decrease in tax and penalties)* shown above, plus any interest provided by law. I understand that by signing this waiver, I will not be able to contest these years in the United States Tax Court, unless additional deficiencies are determined for these years.

YOUR SIGNATURE HERE → Date

SPOUSE'S SIGNATURE → Date

TAXPAYER'S REPRESENTATIVE HERE → Date

CORPORATE NAME →

CORPORATE OFFICER(S) SIGN HERE → Title Date → Title Date

Catalog Number 16894U Form 870 (Rev. 3-1992)

Form 870-IS, Waiver of Collection Restrictions in Innocent Spouse Cases

Once signed and accepted collections can start immediately if any balance remains. This the waiver referred to in the tolling for innocent spouse.

Name of Taxpayer:

Identification Number:

Form 870 page 2

Instructions

General Information

If you consent to the assessment of the deficiencies shown in this waiver, please sign and return the form in order to limit any interest charge and expedite the adjustment to your account. Your consent will not prevent you from filing a claim for refund *(after you have paid the tax)* if you later believe you are so entitled. It will not prevent us from later determining, if necessary, that you owe additional tax; nor extend the time provided by law for either action.

We have agreements with State tax agencies under which information about Federal tax, including increases or decreases, is exchanged with the States. If this change affects the amount of your State income tax, you should file the required State form.

If you later file a claim and the Service disallows it, you may file suit for refund in a district court or in the United States Claims Court, but you may not file a petition with the United States Tax Court.

We will consider this waiver a valid claim for refund or credit of any overpayment due you resulting from any decrease in tax and penalties shown above, provided you sign and file it within the period established by law for making such a claim.

Who Must Sign

If you filed jointly, both you and your spouse must sign. If this waiver is for a corporation, it should be signed with the corporation name, followed by the signatures and titles of the corporate officers authorized to sign. An attorney or agent may sign this waiver provided such action is specifically authorized by a power of attorney which, if not previously filed, must accompany this form.

If this waiver is signed by a person acting in a fiduciary capacity *(for example, an executor, administrator, or a trustee)* Form 56, Notice Concerning Fiduciary Relationship, should, unless previously filed, accompany this form.

Catalog Number 16894U Form 870 (Rev. 3-1992)

92

Validation of Innocent Spouse

- FOIA request is the best option to establish when and what happened.
- If the case goes to Tax Court then Tax Court Search becomes an option.
- Taxpayer's records should also be used if available.
- There is some opportunity here because the IRM states the lesser of three dates.

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93

(Ref) Innocent Spouse

5.1.19.3.6 (04-26-2018) Relief From Joint And Several Liability On Joint Returns/Innocent Spouse

1. Unless collection will be jeopardized by delay, collection by levy or proceeding in court against a requesting spouse is suspended if he or she makes a qualifying request under IRC 6015(b)or IRC 6015(c). Collection against a requesting spouse is suspended if he or she makes a qualifying request under IRC 6015(f) and the liability arose on or after December 20, 2006, or arose prior to December 20, 2006 and remained unpaid as of that date. For more information see IRM 25.15.1.8, Statute of Limitations on Collection.
2. The collection period is suspended from the filing of the claim until the earlier of the date a waiver is filed, or until the expiration of the 90-day period for petitioning the Tax Court, or if a Tax Court petition is filed, when the Tax Court decision becomes final, plus, in each instance, 60 days.
3. If a request for relief is made in response to collection due process procedures, collection activity is suspended and the collection period provided for by IRC 6330(e) for the period during which any administrative hearings, and appeals therein, regarding the levy are pending. The rules for suspension under IRC 6330 differ from IRC 6015. In general, the latest suspension of collection and the collection period should control, which may require analyzing the suspension under both IRC 6015 and IRC 6330 where relief from joint and several liability is requested as part of an IRC 6330 hearing.
4. If the requesting spouse signs a waiver of the restrictions on collection, the suspension of the period of limitations on collection against the requesting spouse will terminate 60 days after the waiver is filed with the Service, limiting the CSED extension to the period from when the claim was filed to the time the waiver was signed, plus 60 days.

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94

Military Deferment

Military deferment tolling events are a hybrid. They are active when a TC 500 Suspension of tax collection - military deferment is on the account transcript.

The TC 500 is changed to a TC 503 Suspension of tax collection - military deferment when the deferment is over.

The military deferment TC 500 does not show the start and end date on the transcript. Instead it is manually calculated using a TC 550 when the TC 500 is changed to a TC 503.

The CSED is suspended during the taxpayer's military service and for an additional 270 days afterward.

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Validation of Military Deferment

- Most military personnel keep copies of their orders and deployment paperwork. The taxpayer's records are the best source of tolling validation.
- FOIA request can be used to determine how the IRS established the starting and ending dates of the tolling event.

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96

(Ref) Military Deferment

5.1.19.3.8 (04-26-2018) Combat Zone or Contingency Operation

1. Under IRC 7508 the deadlines for certain acts performed by either taxpayers and the Service are postponed when the taxpayer serves in:
   a. An area designated as a combat zone;
   b. A contingency operation designated by the Department of Defense;
   c. A qualified hazardous duty area as defined by Congress; or
   d. Direct support of military operations, as certified by the Department of Defense, in a combat zone, contingency operation, or qualified hazardous duty area.
2. The acts specified in IRC 7508 include :
   - Paying Income tax, Estate, Gift, Employment or Excise Tax, and
   - Collecting any tax.

   Rev. Proc. 2007–56, or its successor, expands the list provided in the statute.

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(Ref) Military Deferment

5.1.19.3.9 (04-26-2018) Military Deferment

1. Under the Service Members Civil Relief Act of 2003 (cited as 50 USC. §4000) the collection of any income tax due from any person in the military service, whether falling due before or during military service, may be deferred up to 180 days if ability to pay the tax is materially affected because of that person's military service. The CSED is suspended during the taxpayer's military service and for an additional 270 days afterward.
2. A military deferment suspends the CSED. The Transaction Code 500 with Closing Code 51 identifies a military deferment. For more information see IRM 5.1.7.12.1, Military Deferment Procedures.

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98

Manually Adjusted CSED

The manually adjusted CSED (TC 550) are difficult to determine from the account transcript since they are manually calculated.

The FOIA request is usually needed to determine how the IRS calculated the CSED manually.

The IRS also uses the TC 550 to correct computation errors. If a taxpayer successfully appeals a tolling event the IRS can either remove it from the system or adjust it with a TC 550.

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99

Form 900 Tax Collection Waiver

The Form 900 Tax Collection Waiver is a voluntary extension of the CSED by the taxpayer.

The Form 900 is only currently used when the taxpayer enters into a Partial Pay Installment Agreement. These are not used on all PPIAs, but they can be.

Use of the Form 900 was abused by the IRS prior to 2000 (more on the next slide).

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100

Form 900 Tax Collection Waiver

From the 2013 Taxpayer Advocate's Annual Report:
As of December 31, 2013, 2,371 taxpayers remain subject to IRS collection action because of waivers of the applicable statutory period for collection, which violate the IRS policy limit of five years. **Before 2000, IRS collection personnel solicited waivers to extend the collection period when it did not appear the taxpayer could pay the tax owed prior to the collection statute expiration date (CSED).** Congress limited this practice as part of the IRS Restructuring and Reform Act of 1998 (RRA 98), which generally ended CSED waivers, other than for extensions entered in connection with installment agreements (IAs).

These cases still pop up occasionally. The IRS used to ask the taxpayer to sign the Form 900 extending the CSED 25 years!!!!!! If you stumble on one of these cases with a 25 year CSED extension just file form 911 and get it resolved.

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101

Form 911-Taxpayer Assistance Order (TAO)

IRS IRM 5.1.19.3.13.2 states "Taxpayer Advocate Service (TAS) ***does not have to input*** the appropriate IDRS codes to reflect the suspension of the statute of limitations under IRC 7811(d)."

This means the IRS does not have to enter the Form 911 tolling event, but they still can. If the IRS enters the tolling event for the 911 and you would like to appeal the best avenue is with the Taxpayer Advocate. It is rare that this tolling event is applied so your position should be claimed under the Taxpayer Bill of Rights #10 The Right To A Fair And Just Tax System. Why was my client singled out?

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102

Taxpayer Out Of The Country

CSED tolls if taxpayer outside of the United States for 6 month continuously.

If the taxpayer returns to the US for even an hour it does not toll (think a layover in the US).

The IRS establishes out of country through the following methods:

- From a signed 433-A stating taxpayer out of country.
- Any other written or oral statements by the taxpayer or ***POA*** stating the dates the taxpayer was outside the United States and Commonwealth Territories.
- Tax returns consistently filed since the year of tax assessment with a foreign address.
- Other data sources such as Accurint, credit report, IRP, third party testimony, etc., to determine whether a taxpayer has been outside the United States for a long period of time. Per the IRM do not rely solely on these sources to justify updating the CSED.
- Government-based travel or residency source of information such as TECS Historical Travel Records (State Department Computers).

The IRS tolls the CSED for an additional six months after the taxpayer returns to the US.

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103

Validation of Taxpayer Out Of The Country

- FOIA request will be the best source of information on how the IRS determined the taxpayer was out of the country.
- Taxpayer's records including their passport, travel documents and possibly social media accounts could be used to show the taxpayer returned to US Territory.

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104

(Ref) Taxpayer Out Of The Country

5.1.19.3.7 (04-26-2018) Taxpayer Living Outside the U.S.

1. The period of limitations on collection after assessment is suspended while the taxpayer is outside the United States if the absence is for a continuous period of at least six months per IRC 6503(c) .
2. To make certain that the Government has an opportunity to collect the tax after the taxpayer's return, the period does not expire (where the taxpayer has been out of the country for six months or more) before a minimum of six months after the taxpayer's return to the country. As the application of this provision can result in the CSED being suspended for a very long time, policies for the administration of this code section are now established.

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105

Tax Assessment Reduced To Judgement

The IRS can go to court and have the assessment converted to a judgement.

The Case would show up as a normal Court case on the transcript TC 520 and TC 521. After the case is concluded there would be a TC 550 extending the CSED for 20 years (different than the Form 900 pre-2000 voluntary extension).

The only chance for appeal with a judgement is to prove the CSED expired prior to the start of litigation (before the TC 520).

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106

(Ref) Tax Assessment Reduced To Judgement

5.1.19.3.2.2 (05-19-2016) Suit to Reduce Assessments to Judgment

1. A suit to reduce the assessments to judgment must be filed prior to the expiration of the CSED to suspend the collection period. The filing of a suit will suspend the collection statute during litigation. For more information see IRM 5.17.4.7, Suit to Reduce Assessments to Judgment.
2. When a judgment is entered in a case where assessments were reduced to judgment, request input of TC 550, definer code 04, using 20 years from the date the judgment was entered as the new CSED.

Reminder:

The TC 550 definer code 04 must be input before the TC 520 is reversed. This will prevent the CSED from expiring if it falls during the pendency of the litigation.

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107

Common Avenues To Appeal A CSED

Call ACS or assigned RO and bring it to their attention.	Call Collection Advisory Group (numbers in handout)	File a 911 for the Taxpayer Advocate's assistance.
Form 843 Claim For Refund	File an OIC Doubt To Liability, but only after your CSED has passed (and even then wait at least 90 days if possible just to make sure). • Appeal Rejection.	U.S. Court of Federal Claims or the Federal District Courts once tax is paid.

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108

Prepare Your Appeal

- The more organized your supporting documents and materials are the higher chance of success.
- At a minimum show your work in a spreadsheet.
- Remember most IRS personnel are managing their case load. Give them the supporting documents to support your position when they go to their manager for approval.
- Overwhelm them with organized facts.

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109

Call ACS or Assigned RO

- I usually recommend this since it is the quickest method to resolve this issue, but fewer and fewer cases have been resolved through this method recently.
- The best practice is to ask the IRS Personnel if they have access to the CCALC Program. If they do they should be able to manually check the CSED.
  - Newer IRS employees seem to have not been trained on this program.
  - All manual recalculations need to be reviewed and approved by a supervisor. If your IRS contact is not aware or unwilling to use the CCALC then ask for a supervisor.
  - CCALC is the IRS Excel program used to calculate the CSED manually. It has been available since 2012.

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110

Call Collection Advisory Group

- IRS Collection Advisory Group under IRS Technical Services deals with liens primarily.
- They can also be used to contest inaccurate CSED calculations.
- A list of addresses and contact numbers has been provided in the presentation handouts.
- Success with this option is challenging getting in touch with the right person.

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File A 911-Taxpayer Advocate

- This is my personal favorite.
- There is not much payroll involved in this option other than prepping the case.
- This is where most of the CSED cases I have had experience with are resolved.
- Contesting the Pending IA issues that fall into the 5 Buckets mentioned earlier should always start here.

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112

File Form 843 Claim For Refund

- This would be an option especially for a case with not a lot of liability.
  - Example taxpayer owes $5,000 that is passed calculated CSED.
    - An OIC could cost at least that making this not the best option.
- This would have a lot of the same documentation needed for the OIC if the 843 is denied.

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113

File An OIC Doubt To Liability

- This is a great option but can be time consuming.
- The taxpayer needs to weigh the risk versus reward based on what the OIC fees are compared to the amount and probability of success.
- Some professionals may opt to skip the earlier steps and do this first.
- If the OIC is denied the taxpayer can go to appeals.

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114

U.S. Court of Federal Claims or the Federal District Courts

- This is obviously a last resort since the tax must be paid already to file in Federal Court.
- It is a statutory question so if the case is strong a reasonable option.
- This option can be expensive and Pro Se can be a challenge if even possible.

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115

Polling Question #12

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116

QUESTIONS?

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117