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Arnold van Dyk • Dec. 29, 2020



IRS

Department of the Treasury Internal Revenue Service

Generally, the statute of limitations (SOL) on IRS collection enforcement is ten years from the date the tax is assessed. In the Internal Revenue Manual (IRM), the IRS refers to the date that ends the period in which collections may be enforced as the *Collection Statute Expiration Date*, or CSED. Keep in mind that if a return is audited or a taxpayer files an amended return and additional tax is owed, the ten-year collection statute on the additional taxes will be later than the original return's CSED. Additionally, many penalties carry their own CSED date, including the Estimated Tax Penalty, Deposit Penalty, Delinquency Penalty, various civil penalties, Fraud Penalty, and the Negligence Penalty.

The first step in calculating the CSED is determining the date of assessment on the

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be more than one CSED on a taxpayer's account for any given tax year, it is essential to inquire about all of the potential CSEDs associated with the tax year and the amount of tax associated with each date. For an account where the taxpayer filed their original return, later filed an amended return, and later audited, there may be several assessment dates on the account, including separate penalty assessment dates.

Another way to access the tax liability assessment date is by requesting IRS transcripts of the taxpayer's account. Tax practitioners with a valid Form 2848, *Power of Attorney and Declaration of Representative*, on file with the IRS may contact the Practitioner Priority Service by phone or access the transcripts through IRS E-Services *Transcript Delivery System* (TDS). A tax practitioner will need to sign-up for [IRS E-Services](#) before using the online portal. The following types of transcripts are available without cost through IRS E-Services TDS or by submitting [IRS Form 4506-T, Request for Transcript of Tax Return](#):

- **Tax Return Transcript:** Provides most line data from the taxpayer's originally filed return. This transcript is generally accepted by mortgage and student loan lenders. Tax Return Transcripts are available for the current tax year and three years prior, providing the taxpayer filed the return(s). Keep in mind that the Tax Return Transcript does not provide any information about the account past the filing of the return, including the date of assessment of tax. It will also not reflect any changes from an amended return.
- **Tax Account Transcript:** Provides general data such as the type of return filed, filing status, adjusted gross income, taxable income, and all payments that have been made. This transcript is especially helpful because it provides a record of the activities on the account after the return was filed, such as the date of tax assessment. Additional information that may be obtained from this transcript is the date and amounts of additional payments made by the taxpayer, penalties that

were assessed, and if the return was previously audited. When ordering a Tax

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- **Wage and Income Transcript:** Provides information from all Forms W-2, 1099, 1098, Schedule K-1, and Form 5498, *IRA Contribution Information*, submitted to the IRS for the tax year. This transcript is generally available after July for the current tax year and for ten years prior.
- **Verification of Non-filing Letter:** Beneficial if there is any question whether the IRS has a record of Form 1040, 1040A, or 1040-EZ being filed. This letter does not indicate whether the taxpayer had a filing requirement and is generally available beginning after June 15 for the current tax year and three tax years prior. Taxpayers who need this letter for earlier tax years may submit Form 4506-T.

The transcript Transaction Code (TC) for assessment on the original return is *150*. When additional tax is assessed on an account, the TC is *290*. (Keep in mind that there are several other assessment codes, depending on the type of assessment.) Only two of the above transcripts, Tax Account Transcript and Record of Account Transcript, report the assessment date.

None of the above transcripts provide the CSED. Unless all of the activities that have transpired on a taxpayer's account can be discerned, it will be very challenging to calculate the CSED based on the assessment date alone. This is because the collection statute of limitations may be suspended or extended due to various taxpayer actions, such as filing for bankruptcy, requesting an installment agreement, requesting a timely Collection Due Process Hearing, filing an Offer in Compromise or Innocent Spouse request, living outside of the United States for at least six months, during the time the Taxpayer Advocate Service steps in to intercede, and qualified military deferment. The IRS is prohibited from continuing collection enforcement actions while these actions are in progress.

There is an IRS internal transcript that provides the CSED called a *TXMODA*. Tax professionals may request this internal transcript by contacting the IRS Practitioner

Priority Service telephone hotline. The IRS can refuse to provide this transcript. If the

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accounts. Over seven years ago, in 2013, TIGTA reported that 39% of the seventy-five sample accounts they reviewed had significant CSED calculation errors.^[1] In a blog posted on September 7, 2018, the National Taxpayer Advocate discussed the IRS's systemic problems when calculating the correct CSED and warned tax professionals to be wary of the situation and advocate for the correct CSED for their client.^[2]

One of the most popular payment methods used to pay down taxpayers' tax debt is an Installment Agreement. Ironically, when it comes to accurately calculating the correct CSED on accounts where an Installment Agreement has been requested, the IRS is falling short. According to the aforementioned blog by the National Taxpayer Advocate, Nina Olson, there are errors in the system that cause the CSED to toll for an inordinate amount of time in certain case types involving installment agreements.

The errors are found on accounts where a taxpayer's installment agreement was approved, rejected, appealed, terminated, and reactivated. What appears to be occurring is the IRS will enter in the system that an installment agreement is pending but will not follow-up and enter the resolution in the system, whether that resolution is an approved installment agreement, rejected proposal, or terminated agreement. This critical error is causing taxpayers to be billed for expired liabilities, which are causing an undue financial burden on unsuspecting taxpayers.

Given the CSED inaccuracies on taxpayer accounts, taxpayers have submitted payments to the IRS after the CSED expired. Any payment that is submitted after the CSED has expired is referred to as an *overpayment*.^[3] The IRS is not to solicit payments once the CSED has expired. They are also not required to give notice to the taxpayer when the CSED has expired. A taxpayer will need to contact the IRS by phone and ask if the CSED has expired or request a Tax Account Transcript. The transcript will show a TC code of 608, *Write-off of balance due*, when the CSED has expired.

When a taxpayer submits a payment for a liability whose CSED has already expired

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a return is filed or two years from the time the tax was paid, whichever is later, to claim a refund or credit on a payment.^[4] If the taxpayer did not file a return but made a payment, the taxpayer must request a claim for a refund within two years of making the payment.

The date of assessment and collection statute expiration date are two integral components of the tax collection representation process. It is vital for tax professionals to know how to obtain these dates and keep watch for CSED date inaccuracies on a client's IRS account. Through determining the CSED, we, as tax practitioners, can provide the best representation advice and remedy for our client, and most of all, do no unintentional harm.

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[1] "Recalculations of the Collection Statute Expiration Date Were Not Always Accurate," TIGTA Office of Audit, September 16, 2013,
https://www.treasury.gov/tigta/auditreports/2013reports/201330098_oa_highlights.l

[2] Nina E. Olson, "NTA Blog: "As a Result of TAS Advocacy, the IRS is Working to Address a Computer Glitch That Allowed Collection Activity on Accounts Expired Collection Statute Expiration Dates but Many Issues Remain Unresolved," Taxpayer Advocate Service Tax News, September 7, 2018,
<https://taxpayeradvocate.irs.gov/news/NTA-blog-IRS-Working-to-Address-Collection-Activity-on-Accounts-with-expired-CSED?category=Tax%20News>

[3] IRC §6401(a)

[4] IRC §6511(a)

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