



Department of the Treasury
Internal Revenue Service
Independent Office of Appeals
401 West Peachtree Street, NW
Stop 1100-D, Room 1455
Atlanta, GA 30308-3510

Certified Mail

NOTICE OF DETERMINATION

Concerning Collection Actions under IRS Sections 6320 or 6330 of the Internal Revenue Code

Dear

We reviewed the completed or proposed collection actions for the tax periods above. This letter is your Notice of Determination, as required by law. We attached a summary of our determination. The attached determination summary shows the matters we considered at your Appeals hearing and our conclusions.

If you want to dispute this determination in court, you must file a petition with the United States Tax Court within 30 days from the date of this letter. You can download a fillable petition form and get information about filing at ustaxcourt.gov. The Tax Court encourages petitioners to electronically file petitions. You can eFile your completed petition by following the instructions and user guides available on the Tax Court website at ustaxcourt.gov/dawson.html. You will need to register for a DAWSON account to do so. Or you may send the completed petition to:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

Be sure to include a copy of this notice and any attachments with the petition and the filing fee payable online, or by mail or in person using a check or money order made out to Clerk, U.S. Tax Court. Do not send your petition to the IRS Independent Office of Appeals; you must file your petition with the Tax Court.

The United States Tax Court also has a simplified procedure for an appeal of a collection action if the total unpaid tax, including interest and penalties, for all periods doesn't exceed \$50,000. You can obtain information about this simplified procedure by writing to the Tax Court or visiting their website.

The law limits the time for filing your petition to the 30-day period mentioned above. This 30-day period is suspended during any time that you're prohibited from petitioning the Tax Court due to the filing of a bankruptcy petition, plus an additional 30 days.

Your petition is timely if the Tax Court receives it within the 30-day period or if it is postmarked by the United States Postal Service within the 30-day period and the envelope containing the petition is properly addressed with the correct postage. The postmark rule doesn't apply if using the mail service of a foreign country. Generally, your petition will be timely if the date marked by a designated private delivery service is within the 30-day period. You can find a list of designated delivery services for domestic and international mailings in Notice 2016-30, which is available on our website at [IRS.gov/pub/irs-drop/n-16-30.pdf](https://www.irs.gov/pub/irs-drop/n-16-30.pdf). The list of approved delivery companies is subject to change.

If you lack access to a computer or the internet and want to file a paper petition, you may get a copy of the petition form and filing information by contacting the Office of the Clerk of the Tax Court at the address above or by calling 202-521-0700.

If you don't petition the court, we'll return your case to the originating IRS office for action consistent with the determination summarized below and described on the attached pages. If you have questions, contact the person at the telephone number listed at the top of this letter.

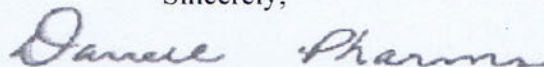
Summary of Determination

The levy action proposed by the Revenue Officer is sustained.

If you submitted a Form 2848, Power of Attorney and Declaration of Representation, or Form 8821, Tax Information Authorization, we'll send a copy of this letter to the representative.

If you have questions, contact the person listed at the top of this letter.

Sincerely,



Darrell L Pharms
Appeals Team Manager

Enclosures:
Decision document
IRS Appeals Survey

cc:

HOW DID WE DO?

Tell the Independent Office of Appeals about your experience with the Appeals process.

The IRS Independent Office of Appeals wants to improve its interactions with taxpayers. One way we do this is by asking taxpayers and tax professionals who've recently appealed a tax issue, to complete a Customer Satisfaction Survey. We'll use the results of the survey to improve taxpayers' experiences during the Appeals process and we'd really appreciate your help.

Participation is **voluntary, anonymous** and should take only a **few minutes to complete**. You can complete the survey on a computer or smart device with a browser.

ICF, an independent research company, manages the survey for us. They'll collect data and supply survey results to us without information that could trace answers to the survey back to any person or entity. They are legally bound to protect the information they collect under the Privacy Act, 5 USC Section 552a, and Internal Revenue Code Section 6103. We will not ask for personal or financial information of any kind.

If you have any questions or want to verify the IRS sponsorship of the survey, you can visit **IRS.gov/css**, call the ICF Survey Help Desk at **800-427-4275**, or email ICF at **IRSAppealsSurvey@icfsurvey.com**.

The Independent Office of Appeals is committed to serving the public in the best way possible. Your opinions play a very important role in improving the services we offer.

Thank you for your participation!

Sincerely,

Andrew J. Keyso

Chief, IRS Independent Office of Appeals

We provide 2 easy ways
to get started:

Visit

IRSAppealsSurvey.com

and enter the following password:

9523026107

- Or -

Scan this QR code



Using your smartphone or
tablet's camera app and
enter the password above.

Attachment



Type of Tax(es)	Tax Period(s)	Date of CDP Notice	Type of hearing	Date used to determine timeliness
1040			6330	01/08/2022
1040			6330	01/08/2022

This hearing is provided for under IRC § 6330 with respect to the issuance of the Notice of Intent to levy and Right to a Hearing.

SUMMARY AND RECOMMENDATION

You filed a request for a Collection Due Process (CDP) hearing under Internal Revenue Code (IRC) § 6330 following receipt of a Letter 1058, Notice of Intent to Levy and Notice of Your Right to a Hearing. The Fresno, CA Compliance Division issued the notice on December 13, 2021 via Certified Mail, Return Receipt Requested. Your Form 12153 requesting a CDP hearing was received by Compliance on January 08, 2022. The request was timely as it was made within the 30-day period for requesting a CDP hearing.

After discussion of the proposed levy action during a correspondence conference with you, review of the collection case file, master file record, and information submitted by you previously, a determination was made to sustain the proposed levy action.

Therefore, the case is being returned to the Compliance function for the appropriate action.

BRIEF BACKGROUND

The taxpayers requested a Face to Face hearing and the opportunity to audio record the hearing. Unfortunately, due to the unfiled returns, the taxpayers did not meet the requirements for a Face to Face hearing. Appeals issued an appointment letter on 30/2/2023 offering a correspondence conference, and scheduling a phone conference for 04/18/2023 at 9:00AM(EST), if a correspondence was not preferred. A request was also made for Form 433-A, Collection Information Statement for Wage Earners and Self-Employed Individuals along with supporting documents; signed 1040 tax returns for tax periods 12/2018, 12/2019, 12/2020, 12/2021; proof that estimated tax payments are paid in full for the 2022 year to date.

The information was requested to be submitted within 14 days from the date of the letter. For tax returns, within 21 days from the date of the letter.

No information was received by the deadlines given.

On 04/14/2023, the taxpayers requested their hearing be held by correspondence. On 04/25/2023 Appeals issued the correspondence hearing letter addressing the issues the taxpayer raised.

you nor your representative called for the scheduled conference.

LEGAL AND ADMINISTRATIVE REVIEW

I, P R Brewton, verified the requirements of any applicable law or administrative procedure were met. IRS records confirmed the proper issuance of the notice and demand, Notice of Intent to Levy and/or Notice of Federal Tax Lien (NFTL) filing, and notice of a right to a Collection Due Process (CDP) hearing.

An assessment was properly made for each tax and period listed on the CDP notice.

Notice and demand for payment was mailed to your last known address.

There was a balance due when the Notice of Intent to Levy was issued or when the NFTL filing was requested.

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

I reviewed the Collection file, IRS records and information you provided. My review confirmed that the IRS followed all legal and procedural requirements, and the actions taken or proposed were appropriate under the circumstances.

ISSUES YOU RAISED

The issue the taxpayers raised in writing on Form 12153 stated: *"We are requesting that the IRS stop levying John Loveless' social security payments, for \$375.30 per month taken since 10-28-21 to present date, see attached. We request that the IRS refund the money that has been illegal taken already. We are disputing the IRS' proposed intent to levy. We request that the IRS show us how the IRS came up with the numbers they claim we owe. We request that the IRS refrain from any and all collection activity against us until the IRS sends us verification that the IRS followed all the legal and administrative procedures, required by law. We request that we speak to IRS Appeals Officer prior to our hearing to review our case. We would like a face-to-face hearing closest to where we live, which we intend to record, to review all the documents that the IRS appeals has which shows what procedure the IRS followed and to correct any errors that might be there. If at the end of the hearing it is found that we owe the tax, then we would like to discuss all the available collection alternatives available to us."*

Collection Alternatives Requested

You offered no alternatives to collection.

Although you offered no alternatives to collection, Appeals requested a completed Collection Information Statement to propose a collection alternative. A request was also made for the unfiled returns. You failed to provide the requested information by the deadlines given.

Challenges to the Liability

You disagree with your liability by stating in writing: *"In our hearing by correspondence please address the issues that we brought up in my Collection Due Process Hearing Request for tax year*

2016 and 2017, dated January 7, 2022. We have no idea how these tax claims of IRS got to be owed by us. We never claimed that we owe this money to the IRS and IRS never sent us the following legal letters informing us of a proposed tax and an opportunity for us to challenge those tax proposals of the IRS.

We would also like to address the issue that the IRS failed to send us a Notice of Deficiency and a 'Notice and Demand for Payment as required by the Internal Revenue Code Sections 6212, 6213 and 6303."

Regarding the liability you are raising:

By law, the Service has the authority to conduct examinations under Title 26, Internal Revenue Code, Subtitle F – Procedure and Administration, Chapter 78, Discovery of Liability and Enforcement of Title, Subchapter A, Examination and Inspection, which includes, but is not limited to, IRC 7602, Examination Of Books And Witnesses and IRC 7605, Time And Place Of Examination.

CDP provisions do not allow consideration of the liability if you previously had the opportunity to dispute the liability. IRS records for the years in question indicate that the Notice of Deficiency for tax year ending December 31, 2016, was mailed certified on April 10, 2019, to your last known address. The Notice of Deficiency for tax year ending December 31, 2017, was mailed certified on September 04, 2019, to your last known address. Therefore, under IRC 6330(c)(2)(B), if you have had a prior opportunity to contest the liability, you may **NOT** contest it under Collection Due Process.

You did not avail yourselves of the opportunity to file a petition for re-determination of the deficiency with the Tax Court. As such you **cannot** raise this issue under CDP provisions.

You raised no other issues.

BALANCING ANALYSIS

The proposed Levy action is sustained due to all legal and procedural requirements having been met.

Although less intrusive alternatives such as offers and installment agreements exists, your failure to become compliant with all filing and estimated tax payment requirements and failure to submit financial information and requested documentation, balances against them; and so while more intrusive, the Government's proposed levy action is appropriate, and the action is sustained. Therefore, the proposed levy action balances the need for efficient collection with your concern that any collection be no more intrusive than necessary.

Internal Revenue Service

Appeals

Room 1455 Stop 1100-D
401 W. Peachtree Street NE
Atlanta, GA 30308-3569

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