

Fishing Information Newsletter

News You Can Use from the Internal Revenue Service

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Message from the Editor

Although we previously indicated that the next Fishing Information Newsletter (FIN) would be issued in September, we are issuing an August FIN since we have had reports that some fishers have received estimated tax penalty notices which they feel are wrong. This FIN provides the procedures you should follow if you feel you have been incorrectly assessed the estimated tax penalty. The Collection Appeals Program (CAP) article continues our series of articles on collection issues.

Joan Olmstead
Editor, Fishing Information Newsletter

Please send us your topic ideas and questions....

E-mail: joan.e.olmstead@irs.gov or
fishing.assistance@irs.gov

Mail: Internal Revenue Service
Attn: MS A160-Joan Olmstead
949 E. 36th Avenue
Anchorage, AK 99508

Phone: (907) 271-6914

Collection Appeals Program (CAP) – Your Rights & the Procedures Explained

The CAP procedure is available under more circumstances than the Collection Due Process hearing procedures discussed in the July FIN. It is important to note that you can't proceed to court if you don't agree with Appeals' decision in your CAP case. Collection actions you can appeal are:

Notice of Federal Tax Lien. You may appeal before or after the IRS files a lien. You may also appeal denied requests to withdraw a Notice of Federal Tax Lien, and denied discharges, subordinations, and non-

attachments of a lien. If the IRS files a Notice of Federal Tax Lien, you may have additional Collection Due Process appeal rights (see July 2001 FIN).

Notice of Levy. You may appeal before or after the IRS places a levy on your wages, bank account or other property. Before a levy is issued, you may have additional Collection Due Process appeal rights (see July 2001 FIN).

Seizure of Property. You may appeal before or after the IRS makes a seizure. If you request an appeal after the IRS makes a seizure, you must appeal to the Collection manager within 10 business days after the Notice of Seizure is provided to you, or left at your home or business.

Denial or Termination of Installment Agreement.

You may appeal when you are notified that the IRS intends to deny you an installment agreement. You may also appeal when we propose to terminate or terminate your installment agreement. The right to appeal denials or terminations of installment agreements is provided by law rather than provided by IRS administratively. As such, there are some differences between CAP for installment agreements and other CAP cases, such as levies etc.

How do you appeal one of these IRS actions if your only collection contact has been a notice or telephone call?

1. Call the IRS at the telephone number shown on your notice. Be prepared to explain which action(s) you disagree with and why you disagree. You must also offer your solution to your tax problem.
2. If you can't reach an agreement with the employee, tell the employee that you want to appeal their decision. The employee must honor your request and will refer you to a manager. The manager will either speak with you then, or will return your call within 24 hours.

3. Explain which action(s) you disagree with and why you disagree to the manager. The manager will make a decision on the case. If you don't agree with the manager's decision, your case will be forwarded to an Appeals Officer for review.

How do you appeal one of these IRS collection actions if you have been contacted by a Revenue Officer?

1. If you disagree with the decision of the Revenue Officer, and wish to appeal under CAP, you must first request a conference with a Collection manager.
2. If you do not resolve your disagreement with the Collection manager, you may request Appeals consideration by completing Form 9423, *Collection Appeal Request*. This form is available by calling 1-800-829-3676, or from our web site at www.irs.gov. Check the action(s) you disagree with and explain why you disagree. You must also explain your solution to resolve your tax problem.
3. Submit the Form 9423 to that Collection Office.
4. The Collection Office must receive your appeal request for a lien, levy, or seizure within 2 days of your conference with the Collection manager or we will resume collection action. For an appeal request for a denial or termination of an installment agreement, you have 30 days from the date of denial or termination of your installment agreement, to submit your request to the Collection Office.

Important: The IRS cannot levy until 30 days after the denial or termination of an installment agreement. If you appeal the denial or termination of an installment agreement within that 30-day period, we must stop levy action until your appeal is completed.

What will happen when you appeal your case?

Lien, Levy, and Seizure: Normally, we will stop collection action on the tax periods the Appeals Officer is considering, unless we believe the collection of the tax is at risk.

Installment Agreements: the IRS can't levy until 30 days after the denial or termination of your agreement. If you appeal within that 30-day period, we will stop levy action until your appeal is completed.

Once the Appeals Officer makes a decision on your case, that decision is binding on both you and the

IRS. This means that both you and the IRS are required to accept the decision and live up to its terms. You cannot obtain judicial review of an Appeals Officer's decision following a CAP hearing.

Note: Providing false information, failure to provide all pertinent information or fraud will void Appeals' decision.

Estimated Tax Penalty – Is Your Estimated Tax Penalty Notice Correct?

Did you:

1. Have at least 66 2/3% of your gross income for 1999 or 2000 from fishing (or farming), *and*
2. (A) Make an estimated tax payment by January 15, 2001 of at least 66 2/3% of the tax shown on your 2000 return (or 100% of the tax shown on your 1999 return, if smaller), or (B) skip the January 15, 2001 estimated tax payment, but file your Form 1040 return by March 1, 2001, and pay all the tax you owe at that time?

If you can answer "Yes" to both items 1 and 2, the estimated tax penalty will not be applicable to your 2000 tax year return. If you received an estimated tax penalty notice from the Service Center that you feel is wrong, what should you do?

First, confirm whether the penalty is applicable. Items 1 and 2 above contain the criteria for a fisher with sufficient fishing gross income (66 2/3%) to avoid the estimated tax penalty. Different criteria is applicable to those fishers who did not have at least 66 2/3% of their gross income from fishing (or farming) in the 1999 or 2000 tax years. Publication 505, *Tax Withholding and Estimated Tax*, contains detailed information on this topic.

Second, if you conclude that you are not subject to the estimated tax penalty, immediately write to the address contained on the penalty notice or call the phone number contained on the penalty notice and explain why you feel the penalty notice is in error. This type of issue can usually be resolved by a letter or phone call to the IRS. Do not ignore a penalty notice even if you think it was sent to you by mistake.

If the IRS assistor indicates that the penalty will be removed, you may still receive another penalty balance due notice since it can take about three weeks for the penalty removal to post to your account. If you receive another notice, and it has been at least three weeks since you were informed the penalty would be removed, call the IRS at 1-800-829-1040. Ask the assistor to review your account for the penalty removal. If it hasn't been removed, you can either continue working with the Service Center regarding the penalty removal or go on to step three.

Third, if you have been unable to resolve the issue through the normal IRS customer service channels, you may wish to consider contacting the Taxpayer Advocate Service. You are eligible to contact the Taxpayer Advocate when you have an ongoing issue that you have been unable to resolve through the usual customer service channels. If you are on your second attempt to resolve a problem, have already gone through all established systems without resolving the issue, or the IRS hasn't contacted you by the promised date, then you can request a Taxpayer Advocate be assigned to take a fresh look at the case. The individual will stay with you until the issue is resolved. You may call the local Taxpayer Advocate Office for the area where you reside or call toll-free 1-877-777-4778.

How do I prepare my return to help prevent an incorrect estimated tax penalty assessment?

- When you file your return, attach Form 2210-F, *Underpayment of Estimated Tax by Farmers and Fishermen* (not required, but helpful).
- Make sure the correct Principal Business Activity (PBA) code is used on the return. The correct code for the fishing industry is 114110.
- If the fishing income on your individual return is from a partnership or S corporation, be sure to complete line 41 of Schedule E (Form 1040). The IRS then knows the gross income reported from the partnership or S corporation is from fishing.

What do I do if I already paid the estimated tax penalty without questioning it?

If you have paid the estimated tax penalty and now feel it is wrong, you can file Form 843 requesting the penalty amount be refunded to you.

FIN Index

The index to the past issues of the FIN is included as a separate file (for those of you who receive the FIN by email) and as the last page of the newsletter for those of you who receive the FIN in paper format.

Need Back Issues?

Back issues of the FIN are available. Please feel free to request them by Month/Year or Volume Number through any of the email or regular mail addresses on the first page of the FIN.

Tax Assistance Hotline, Forms Hotline, Internet Access

Taxpayer Assistance

Phone Numbers:

(800) 829-1040

(800) 829-4059 TTY/TDD (Hearing Impaired)

Tax Forms and Publications

(800) 829-3676, seven days a week, 24 hours a day. Order free tax forms and publications.

IRS Internet Access

World Wide Web: www.irs.gov

The IRS Web Home Page allows convenient access to tax information 24 hours a day. The Web Site provides tax forms with instructions, publications, the latest tax law changes, and much more information for individuals and businesses.

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