
TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



*Fiscal Year 2013
Statutory Review of Compliance
With Lien Due Process Procedures*

July 30, 2013

Reference Number: 2013-30-072

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

Redaction Legend:

1 = Tax Return/Return Information

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HIGHLIGHTS

FISCAL YEAR 2013 STATUTORY REVIEW OF COMPLIANCE WITH LIEN DUE PROCESS PROCEDURES

Highlights

Final Report issued on July 30, 2013

Highlights of Reference Number: 2013-30-072 to the Internal Revenue Service Commissioners for the Small Business/Self-Employed and the Wage and Investment Divisions.

IMPACT ON TAXPAYERS

After filing Notices of Federal Tax Liens, the IRS must notify the affected taxpayers in writing, at their last known address, within five business days of the lien filings. However, the IRS did not always follow its own internal guidelines for notifying taxpayer representatives of the filing of a Notice of Federal Tax Lien. This can cause additional burden to those taxpayers who rely on a representative to handle tax matters.

WHY TIGTA DID THE AUDIT

TIGTA is required by law to determine annually whether lien notices issued by the IRS comply with the legal guidelines in Internal Revenue Code Section 6320.

WHAT TIGTA FOUND

TIGTA reviewed a statistically valid sample of 133 Notices of Federal Tax Liens filed for the 12-month period ending June 30, 2012, and determined that the IRS mailed *****1*****
*****1***** as required by Internal Revenue Code Section 6320.

IRS regulations require that taxpayer representatives be given copies of all correspondence issued to the taxpayer. However, for five of the 47 cases in the statistically valid sample in which the taxpayer had an authorized representative, the IRS did not notify the taxpayers' representatives of the Notice of Federal Tax Lien filings. TIGTA estimated that 27,389 taxpayers may have been adversely affected because the IRS did not follow requirements to notify the taxpayers'

representatives of the taxpayers' rights related to liens.

In addition, the IRS is not always following internal procedures for undelivered lien notices. IRS procedures require address verification and, if applicable, resolution of undelivered lien notices within 14 calendar days of receipt. TIGTA selected a judgmental sample of 248 undelivered lien notices returned to the Cincinnati (113 lien notices) and Fresno (135 lien notices) Campuses in October 2012. For 102 of the 248 undelivered lien notices, employees did not perform the required research within 14 calendar days of receipt of the returned lien notice.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS revise the Notice of Federal Tax Lien request form to include a checkbox to indicate that a power of attorney is required to be sent a copy of the lien notice and establish procedures to require the lien unit to verify all lien requests in which the checkbox is blank. TIGTA also recommended that the IRS establish controls to ensure that the Automated Collection System Support function received date for undelivered lien notices is properly documented and that undelivered lien notices are researched timely.

The IRS agreed with both of TIGTA's recommendations. The IRS plans to revise the Notice of Federal Tax Lien request form and modify procedures for the Centralized Lien Operation's processing of the form to include verification of missing power of attorney information. The IRS also plans to issue a Service-wide Electronic Research Program Alert and update its procedures to require that the Automated Collection System Support function received date be documented. The Automated Collection System Support function will also begin using the Integrated Data Retrieval System feature for systemic generation of the Transaction Code 971 action code on undelivered liens.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

July 30, 2013

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED
DIVISION
COMMISSIONER, WAGE AND INVESTMENT DIVISION

FROM: Michael E. McKenney
Acting Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2013 Statutory Review of Compliance
With Lien Due Process Procedures (Audit # 201330001)

This report presents the results of our review to determine whether liens issued by the Internal Revenue Service (IRS) comply with legal requirements set forth in the Internal Revenue Code (I.R.C.) Section (§) 6320 (a) and related guidance in the Federal Tax Liens Handbook. The Treasury Inspector General for Tax Administration is required by law to determine annually whether lien notices issued by the IRS comply with the legal guidelines in I.R.C. § 6320. The audit is included in our Fiscal Year 2013 Annual Audit Plan and addresses the major management challenge of Taxpayer Protection and Rights.

Management's complete response to the draft report is included as Appendix VIII.

Copies of this report are also being sent to the IRS managers affected by the report recommendations. If you have any questions, please contact me or Augusta R. Cook, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations).



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Abbreviations

ACS	Automated Collection System
ALS	Automated Lien System
AMS	Accounts Management System
CAF	Centralized Authorization File
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service
NFTL	Notice of Federal Tax Lien
SB/SE	Small Business/Self-Employed
TIGTA	Treasury Inspector General for Tax Administration



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Background

The Internal Revenue Service (IRS) attempts to collect Federal taxes due from taxpayers by sending letters, making telephone calls, and meeting face-to-face with taxpayers. The IRS has the authority to attach a claim,¹ commonly referred to as a Federal tax lien, to the taxpayer's assets for the amount of unpaid tax when the taxpayer neglects or refuses to pay. The IRS files a Form 668(Y)(c), *Notice of Federal Tax Lien* (NFTL),² in appropriate local government offices and interested parties are notified that a lien exists.

Since January 19, 1999, Internal Revenue Code (I.R.C.) Section (§) 6320³ has required the IRS to notify taxpayers, in writing, within five business days of the filing of a NFTL. The IRS is required to notify taxpayers the first time a NFTL is filed for each tax period. The lien notice⁴ is used for this purpose and advises taxpayers that they have 30 calendar days, after that five-day period, to request a hearing with the IRS Appeals office. The lien notice indicates the date on which this 30-day period expires.

***The IRS is required to notify
taxpayers the first time
a NFTL is filed.***

The law also requires that the lien notice explain, in simple terms, the amount of unpaid tax, administrative appeals available to the taxpayer, and provisions of the law and procedures relating to the release of liens on property. The lien notice must be given in person, left at the taxpayer's home or business, or sent by certified or registered mail to the taxpayer's last known address.⁵

Most lien notices are mailed to taxpayers by certified or registered mail rather than being delivered in person. The IRS Automated Lien System (ALS) generates a certified mail list that identifies each notice that is to be mailed. The notices and a copy of the certified mail list are delivered to the U.S. Postal Service. A U.S. Postal Service employee ensures that all notices are accounted for, date stamps the list, and returns a copy to the IRS. The stamped certified mail list is the only documentation the IRS has that certifies the date on which the notices were mailed. A synopsis of the IRS collection and lien filing processes is included in Appendix V.

¹ I.R.C. § 6321.

² IRS Form 668(Y)(c), *Notice of Federal Tax Lien* (Oct. 1999).

³ I.R.C. § 6320.

⁴ IRS Letter 3172, *Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320* (Mar. 2009).

⁵ The last known address is the one shown on the most recently filed and properly processed tax return, unless the IRS received notification of a different address.

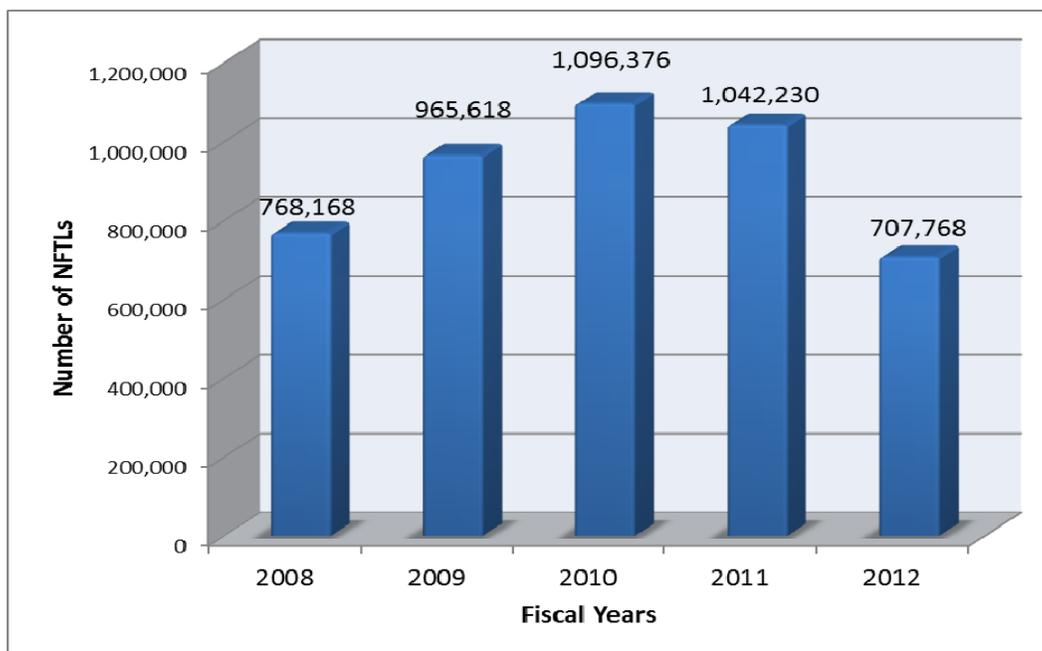


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Depending on employee access and case status, NFTL requests can be generated using one of three IRS systems: 1) the Integrated Collection System (ICS), 2) the Automated Collection System (ACS), or 3) directly input into the ALS. Appendix VI provides a description of IRS computer systems used in the issuing of the NFTLs.

In Fiscal Year 2011, the IRS implemented the Fresh Start initiative to provide aid to struggling taxpayers. This initiative increased the threshold when NFTL filing determinations are generally made from \$5,000 to \$10,000. Figure 1 shows the number of NFTLs filed has decreased from 1,042,230 to 707,768 (32 percent) between Fiscal Year 2011 and 2012.

Figure 1: Number of NFTLs Filed From Fiscal Years 2008–2012



Source: IRS Data Book published in Fiscal Years 2008 through 2012.

The Treasury Inspector General for Tax Administration (TIGTA) is required to determine annually whether the IRS complied with the law regarding the notification of affected taxpayers and their representatives when filing NFTLs.⁶ This is our fifteenth annual audit to determine whether the IRS complied with the legal requirements of I.R.C. § 6320 and its own related internal guidelines for issuing lien notices.⁷ In the last five years, we reported twice that the IRS was in full compliance with the law of timely notifying taxpayers, but we reported five times that the IRS had not achieved compliance with internal guidelines involving power of attorney notifications and resolving undelivered lien notices.

⁶ I.R.C. § 7803(d)(1)(A)(iii).

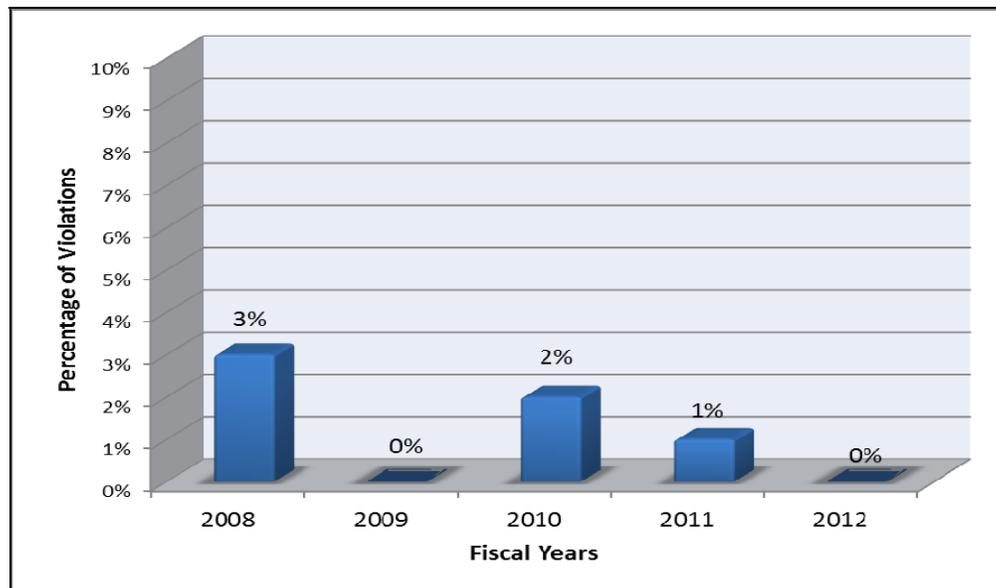
⁷ See Appendix VII for a list of the prior six reports.



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Figure 2 shows the percentages of potential violations of taxpayer rights we identified during our prior five annual audits.

Figure 2: Potential Violations of Taxpayer Rights Based on Timely Notification



Source: TIGTA Statutory Liens Reports issued during Fiscal Years 2008–2012.

This review was performed at the Small Business/Self-Employed (SB/SE) Division Office of Collection Policy in New Carrollton, Maryland, the Centralized Case Processing – Lien Unit and the ACS Support function in Covington, Kentucky, and the Wage and Investment Division ACS Support Function in Fresno, California, during the period September 2012 through March 2013. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.



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Results of Review

Most Lien Notices Were Mailed Timely

Tests of a statistically valid random sample of 133 NFTLs from the 728,439 NFTLs filed between July 1, 2011, and June 30, 2012, showed that the IRS timely and correctly mailed the taxpayers the notices of a lien filing and appeal rights as required by I.R.C. § 6320 for ****1***** of the 133 cases. ****1***** Compliance with the law was verified with the proof of mailing, which is the certified mail listing showing a U.S. Postal Service date stamp. The certified mail listing is produced by the ALS with the taxpayer notice and stamped by the U.S. Postal Service with the date of mailing. The certified mail listing is then forwarded to the Centralized Case Processing – Lien Unit for record keeping.

*****1*****
*****1*****
*****1*****
*****1*****
*****1*****
*****1*****
*****1*****

IRS procedures provide that whenever an appeal request is received, the IRS must make a determination if the request is timely. This is done by reviewing when the NFTL was filed and the lien notice was issued. After we advised the IRS ****1*****
*****1*****

The Internal Revenue Service Did Not Comply With Procedures for Notifying Taxpayer Representatives

Tests showed that the IRS did not appropriately send copies of the lien notices to the representatives of five of 47 taxpayers in our sample who had representatives on file with the IRS. Taxpayer representative information is contained on the Centralized Authorization File (CAF)⁸ that is located on the Integrated Data Retrieval System (IDRS).⁹ Using the IDRS,

⁸ The CAF contains information about the type of authorizations taxpayers have given their representatives for their tax returns.

⁹ IRS computer system capable of retrieving or updating stored information; it works in conjunction with a taxpayer's account records.



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employees can research the CAF to identify the types of authorizations given to taxpayer representatives.

IRS procedures¹⁰ require that any notice or other written communication (or a copy thereof) required or permitted to be given to a taxpayer in any matter before the IRS must be given to the taxpayer and, unless restricted by the taxpayer, to the representative. Accordingly, IRS procedures require the requestor of a NFTL to ensure that he or she notifies the Centralized Case Processing – Lien Unit of all powers of attorney and co-obligors that are to be notified. More specifically, when a NFTL is filed, IRS procedures require that a copy of the lien notice be sent to the taxpayer’s representative as soon as possible after the lien notice is sent to the taxpayer.

Tests of a statistically valid sample of 133 NFTLs included 47 taxpayers with representatives authorized to receive notifications at the time the NFTLs were filed. For five of the 47 taxpayers, ALS records did not indicate that the IRS sent copies of the lien notices to the representatives. Specifically:

- *****1 *****¹¹ *****
*****1 *****
*****1 *****.
- *****1 *****
*****1 *****.
- *****1 *****
*****1 *****
*****1 *****.
- *****1 *****
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*****1 *****.

We project¹² that 27,389 taxpayers may have been adversely affected because the IRS did not follow procedures to notify the taxpayers’ representatives of the taxpayers’ rights related to NFTLs. We are 90 percent confident that the range of potential violations is between 10,854 and 63,447. In addition to this year’s results, Figure 3 shows the error rates reported on the notification of taxpayer representatives in our last six reports.

¹⁰ Conference and Practice Requirements, Statement of Procedural Rules, 26 C.F.R. § 601.506 (2002).
¹¹ Employees in the Collection Field function who attempt to contact taxpayers and resolve collection matters that have not been resolved through notices sent by the IRS campuses or the ACS. Campuses are the data processing arm of the IRS. The campuses process paper and electronic submissions, correct errors, and forward data to the Computing Centers for analysis and posting to taxpayer accounts.
¹² Two-sided 90 percent confidence interval projection using the exact Binomial method.



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Figure 3: Error Rates Reported on the Notification of Taxpayer Representatives

Report Fiscal Year	Sampled Lien Cases Requiring Representative Notification	Sampled Lien Cases Not Receiving Representative Notification	Error Rate
2007	25	15	60%
2008	30	12	40%
2009	27	8	30%
2010	31	8	26%
2011	30	4	13%
2012	22	4	18%
2013	47	5	11%

Source: Prior and current year results of TIGTA's tests on the notification of taxpayer representatives.

While the error rate has been reduced from 60 percent in our Fiscal Year 2007 report to 11 percent in our Fiscal Year 2013 report, the potential for violations still exists in cases requiring taxpayer representative notification.

In our Fiscal Year 2009 report,¹³ we recommended that the IRS enhance its systems by establishing a systemic upload of CAF data to the ALS in order to ensure that taxpayer representatives timely receive copies of lien notices. In response, the IRS agreed to look at the feasibility of developing a systemic process.

The IRS initiated development of an Integrated Automation Technology¹⁴ tool as a means of communicating between the IDRS and ALS. During testing, the IRS concluded that the tool was too slow for use in production and made suggestions for modifications to the tool. Accordingly, the Director, Collection Policy, SB/SE Division, submitted a formal request in December 2011 to have the modifications to the tool implemented. This request was not acted upon because additional resources for programming were severely limited. While the IRS agrees that the Integrated Automation Technology tool is the best corrective action, the recommendation was closed as not feasible.

¹³ TIGTA, Ref. No. 2009-30-089, *Additional Actions Are Needed to Protect Taxpayers' Rights During the Lien Due Process* (Jun. 2009).

¹⁴ Tools that simplify research, reduce keystrokes, and increase the accuracy of regular work processes. Integrated Automation Technology tools interact with the IDRS to automate casework.



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Recommendation

Recommendation 1: The Director, Enterprise Collection Strategy, SB/SE Division, should revise the NFTL request form to include a checkbox indicating whether a valid power of attorney is required to be sent a copy of the lien notice and establish procedures requiring the lien unit to verify all lien requests in which the checkbox is blank.

Management's Response: IRS management agreed with the recommendation. IRS officials will revise Form 12636, *Request for Filing or Refiling Notice of Federal Tax Lien*. The IRS will also modify procedures for the Centralized Lien Operation's processing of the form to include verification of missing power of attorney information.

Opportunities Exist to More Effectively Work Undelivered Lien Notices

Employees are not following procedures that could preclude the IRS from determining whether undelivered lien notices are being researched timely. Additionally, employees are not updating the undelivered status of lien notices as required. As a result, there is no record of the mail status of these lien notices.

IRS procedures require that employees send taxpayers another lien notice to a new address if all of the following factors are present:

- The originally mailed notice is returned as undelivered mail.
- Research confirms the original lien notice was not sent to the last known address.
- The new address was effective prior to or during the same cycle¹⁵ the NFTL was requested.

Collection function employees are responsible for certain actions when notices are returned as undelivered. For example, ACS Support employees are required to research the IRS computer system within 14 calendar days of receipt to ensure that the address on the original lien notice is correct. If the employee cannot find a new address on the computer system, the undelivered lien notice will be destroyed and a new notice is not issued.

If the address on the lien notice is not the last known address and a different address was in effect prior to the NFTL being requested, employees should issue a new lien notice to the new address. A new lien notice is created by using an option in the ALS.

A test of undelivered lien notices identified 35 (14 percent) of 248 lien notices in which the address on the IRS computer system and the original lien notice did not agree. For all of the 35 lien notices, the address on the IRS computer system was updated appropriately after the

¹⁵ Cycle refers to the IRS method of documenting dates (*i.e.*, Processing Cycle 201102 is the second week of January 2011).



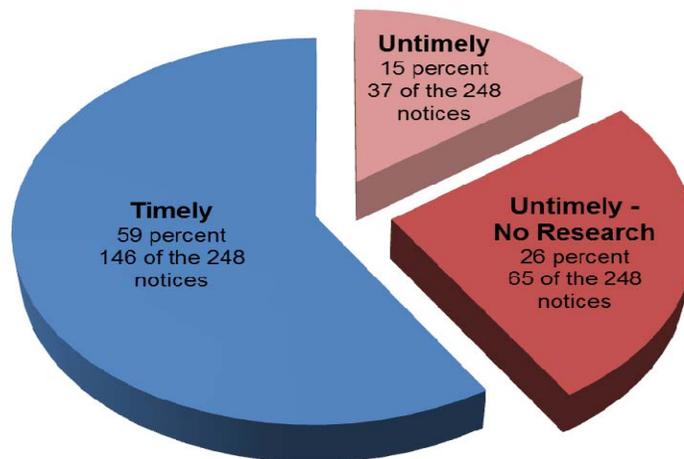
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original lien notice was sent to the taxpayer. Therefore, no additional action was necessary. Accordingly, no lien notices were required to be resent.

Employees are not always following internal procedures for undelivered lien notices

A review of ACS and Accounts Management System (AMS)¹⁶ histories as of March 28, 2013, showed that although 59 percent (146 of 248) of accounts were researched timely, 41 percent (102 of 248) were not researched timely or were not researched at all. IRS procedures require address verification and, if applicable, resolution of undelivered lien notices within 14 calendar days of receipt in the ACS Support function. Figure 4 shows how the 248 returned lien notices were handled by employees.

Figure 4: Timeliness of Employee Research of Undelivered Lien Notices



Source: TIGTA analysis of undelivered lien notices.

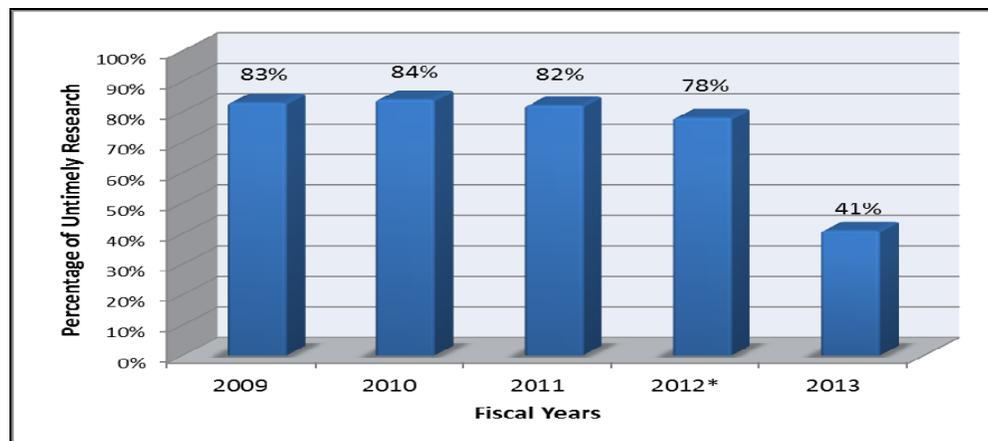
¹⁶ The AMS is a computer-based system used to answer and resolve all taxpayer account-related inquiries. The AMS provides a common interface that allows users of multiple IRS systems to view history and comments from other systems.



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Figure 5 shows the improvement from prior years in which the majority of the sampled undelivered lien notices was researched untimely.

Figure 5: Error Rates Reported on Undelivered Lien Notices



Source: Prior and current year results of TIGTA's tests of undelivered lien notices. *The IRS changed the definition of timely from within seven calendar days to within 14 calendar days of receipt for undelivered lien notices reviewed beginning with our Fiscal Year 2012 report.

There are significant differences in how the Fresno and Cincinnati Campuses processed undelivered lien notices

Fresno Campus: 14 (14 percent) of the 102 undelivered lien notices that were not researched timely were from the Fresno Campus. Only eight of the 65 cases in which no research had been performed were from the Fresno Campus. The ACS Support function received date was missing from only five (8 percent) of the 65 cases with AMS documentation from the Fresno Campus. The Fresno Campus has approximately 11 employees researching undelivered lien notices.

Cincinnati Campus: 88 (86 percent) of the 102 undelivered lien notices that were not researched timely and 57 of the 65 cases in which no research had been performed after 148 calendar days were from the Cincinnati Campus. The Cincinnati Campus has only one employee dedicated to researching undelivered lien notices.

Additionally, the Cincinnati Campus ACS Support function employees did not follow appropriate documentation procedures. When providing documentation in the AMS or ACS, employees are required to record the ACS Support function received date and the research completion date and note whether the notice was reissued. However, only 57 (50 percent) of the 113 undelivered lien notices sampled from the Cincinnati Campus had documentation supporting research of the undelivered lien notice. None of these 57 cases had the ACS Support function received date documented.

In January 2012, IRS procedures were revised to require ACS Support function employees to document the date undelivered lien notices are received in the ACS Support function and the



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date research is completed. Documentation should be in the ACS narrative history (if the taxpayer's account is still open) or in the AMS (if the taxpayer's account is closed).

Without knowing when the undelivered lien notices were received in the ACS Support function, the researched date had to be compared with the sampled date to determine whether these cases were researched timely. If no receipt date was available in the ACS Support function, the date the undelivered notice was received in the IRS mail room was used as a basis for calculation of timeliness. We allowed for three calendar days for the undelivered lien notices to be routed from the campus mail room. Without the ACS Support function received date, the IRS may be unable to determine whether undelivered lien notices are being researched timely.

The routing of undelivered lien notices may adversely impact timely research

IRS management indicated that the routing of undelivered lien notices could have contributed to the untimely research. Specifically, all returned mail received at the Cincinnati and Fresno Campuses is extracted and sorted by mail type in their respective mail rooms. The undelivered lien notices are routed to the ACS Support functions that are located in different buildings. ACS Support function employees then research IRS computer systems to identify the last known addresses. We allowed three additional calendar days for the undelivered lien notices to be routed from the campus mailroom to the ACS Support functions. We were advised that, in some instances, it takes longer than three calendar days for the undelivered mail to be received in the ACS Support functions.

Employees are still not following procedures designed to monitor undelivered lien notices

Of the 248 sampled undelivered lien notices, 183 were researched (either timely or untimely) by ACS Support function employees and documented in the AMS or ACS. None of the 183 undelivered lien notices researched had the transaction code and associated action code appropriately input to the IDRS as required so that the IRS could track the status of the lien notices and review the handling of undelivered lien notices. Procedures require that:

- The undeliverable notice to be returned directly to the requesting employee or function.
- Employees handling undelivered lien notices input a specific IDRS transaction code with an appropriate action code. The transaction code signifies that the lien notice was returned and the action code indicates the reason (*i.e.*, undelivered, unclaimed, or refused).

On December 22, 2011, the Director, Collection Policy, SB/SE Division, issued interim guidance that emphasized the requirement for Collection Field function employees to input this specific IDRS transaction code with the appropriate action code to reflect the status of the returned lien notice.



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In August 2009 the ALS was enhanced to perform a weekly systemic extract to send the appropriate undeliverable status (transaction code and action code) of lien notices to the IDRS using a specific command in the ALS. When this command is used to update the status of the lien notice, no additional input is necessary to update the IDRS. When a lien notice is returned undelivered and research has been completed regarding an updated address, the employee can request the lien notice screen on the ALS be updated with the undelivered status or go to the lien notice screen themselves and indicate the undelivered status.

However, for our sample of 248 undeliverable lien notices, the ALS was not updated with the status of the undelivered lien notices and, therefore, the upload to the IDRS (via the ALS) did not occur. As a result, there is no record of the status of these lien notices.

Management stated that the requirements to enter these codes do not apply to ACS Support function employees. However, the ACS Support function has been designated by the SB/SE and Wage and Investment Divisions to receive all undelivered lien notices that were filed by the ACS since the address verification process was decentralized in August 2007. Accordingly, the IRS procedures for Federal tax liens provide that the person designated the responsibility of processing undelivered lien notices will also check the IDRS for a last known address and request the input of the transaction code with the appropriate action code or the command code enhancement via the ALS.

Because the ACS Support function was not following the IRS procedures for Federal tax liens, in Fiscal Year 2011 we recommended that Collection and Campus Compliance Services, SB/SE Division, and Compliance, Wage and Investment Division, ensure that the procedures that address the handling of undelivered lien notices are consistent and include the same requirements for timely research of undelivered notices and when a new notice should be sent. Management agreed to reevaluate the procedures to ensure that they are consistent across the functions and support the timely resolution of undelivered notices.

While some changes were made, the procedures pertaining to the campus were not changed to include the requirement to input the specific transaction code and the applicable action code. In our Fiscal Year 2012 statutory lien report, we recommended that the Directors, Enterprise Collection Strategy and Campus Compliance Services, SB/SE Division, ensure that the use of undelivered lien notice processing codes are consistent in the procedures for the ACS and the Collection Field function. The IRS is still evaluating this recommendation with other options and is scheduled to implement corrective action in June 2013. As a result, this procedure will be evaluated during next year's statutory review.

Compliance with these procedures is important because it allows management to review the handling of undelivered lien notices. Undelivered lien notices are being sent back to more than 450 Collection Field function groups nationwide where the employees or functions that requested the liens are located. Because the handling of undelivered lien notices is decentralized and ACS employees fail to update taxpayers' data in the IDRS, management does not have the



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information needed to ensure and enforce the timely resolution of undelivered lien notices. Figure 6 shows this situation has contributed to the number of undelivered lien notices that were not researched timely over the past six years.

**Figure 6: Error Rates Reported
on Undelivered Lien Notices**

Report Fiscal Year	Undelivered Lien Notices Sampled	Undelivered Lien Notices Sampled but Not Researched	
		Timely	Error Rate*
2008	400	133	33%
2009	283	234	83%
2010	300	252	84%
2011	250	204	82%
2012	250	194	78%
2013	248	102	41%

*Source: Prior and current year results of TIGTA's tests of undelivered lien notices. *The IRS changed the definition of timely from within seven calendar days to within 14 calendar days of receipt for undelivered liens reviewed beginning with our Fiscal Year 2012 report.*

The cases sampled for our Fiscal Year 2009 report were selected after decentralization, when the error rate increased from 33 percent to 83 percent. It has remained near 80 percent since that time, with the exception of this year. Further, because employees are not following the procedures to enter the undelivered notice status into the IDRS via transaction and action codes, the information about the undelivered notice is limited to only those employees working the undelivered mail. IRS management, as well as Accounts Management organization¹⁷ employees and Centralized Case Processing – Lien Unit employees, who have access to the ALS, do not have access to information on undelivered lien notices. As a result, Taxpayer Assistance Center¹⁸ employees would be unable to answer taxpayer questions about these NFTLs.

Recommendation

Recommendation 2: The Directors, Collection and Campus Compliance Services, SB/SE Division, and the Director, Compliance, Wage and Investment Division, should establish

¹⁷ The Accounts Management organization is responsible for providing taxpayers with information on the status of their returns and refunds and for resolving the majority of issues and questions to settle their accounts.

¹⁸ A Taxpayer Assistance Center is an IRS office with employees who answer questions, provide assistance, and resolve account-related issues for taxpayers face to face.



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controls to ensure that the ACS Support function received date for undelivered lien notices is properly documented and that undelivered lien notices are researched timely.

Management's Response: IRS management agreed with the recommendation. The IRS will issue a Service-wide Electronic Research Program Alert and update the Internal Revenue Manual to reflect that the ACS Support function received date be documented on either the ACS or AMS dependent on where the case resides. The ACS Support function will also begin using the Integrated Data Retrieval System feature for systemic generation of the Transaction Code 971 action code on undelivered liens.



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Appendix I

Detailed Objective, Scope, and Methodology

Our overall objective was to determine whether liens issued by the IRS comply with legal guidelines set forth in the I.R.C. § 6320 (a) and related guidance in the Federal Tax Liens Handbook. We conducted the following tests to accomplish this objective:

- I. Determined whether liens issued by the IRS complied with legal requirements set forth in I.R.C. § 6320 (a) and related internal guidelines.
 - A. Selected a statistically valid sample of 133 NFTLs for review from an ALS extract of all NFTLs filed by the IRS nationwide between July 1, 2011, and June 30, 2012.

Population:	728,439
Confidence Level:	90 percent
Expected Rate of Occurrence:	2 percent
Precision Rate:	± 2 percent
 - B. Validated the ALS extract by comparing a sample of records to online data.
 - C. Determined whether the sampled NFTLs adhered to legal guidelines regarding timely notifications of lien filings to the taxpayer, the taxpayer's spouse, or business partners by reviewing data from the ALS, ICS, ACS, IDRS, and the certified mail listings.
 - D. Evaluated the impact of any revised legal guidelines regarding timely notification to the original legal guidelines.
 - E. Evaluated the controls and procedures established for transferring, storing, and safeguarding certified mail listings at the Centralized Case Processing - Lien Unit for record keeping.
 - F. Determined if taxpayers' representatives were provided a copy of the lien due process notice by reviewing data from the ALS, IDRS, ICS and ACS.
 1. Reviewed IDRS screens for CAF indicators (transaction code 960) for all sample cases.
 2. Reviewed ALS history screens for accounts with CAF indicators to see whether notices were mailed to taxpayers' representatives.
 3. For the sampled liens without taxpayer's representative/power of attorney and co-obligors notifications on the ALS histories, we reviewed the ACS and the ICS for taxpayer representative indicators and determined whether taxpayer representatives/power of attorneys should have been notified.



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- G. Consulted with TIGTA Counsel prior to reporting any potential legal violations to IRS management.
- II. Evaluated the procedures for processing lien notices (Letters 3172)¹ that are returned undelivered.
 - A. Selected a judgmental² sample in October 2012 of 248 unprocessed (unopened) and recently processed (opened) mail containing undelivered lien notices from the Fresno (135) and Cincinnati (113) Campuses and recorded the taxpayer's name, address, Social Security Number, and Serial Lien Identification number. We used a judgmental sample because we could not determine the population of undelivered lien notices at those two campuses.
 - B. For each sample case, researched the IDRS Master File to determine whether the address on the Master File matched the address on the undelivered lien notice.
 - C. For each sample case, reviewed taxpayer audit trails and ACS and AMS histories to determine whether lien employees performed the required IDRS research during creation of the lien.
 - D. For each sample case, reviewed taxpayer audit trails and ACS and AMS histories to determine whether lien employees performed the required IDRS research for resolution of undeliverable status within 14 calendar days of receipt.
- III. Determined whether internal guidelines have been implemented or modified since our last review by discussing procedures and controls with appropriate IRS personnel in the National Headquarters.

Internal controls methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined the following internal controls were relevant to our audit objective: the SB/SE Division Collection function's policies, procedures, and practices for timely notifying taxpayers of lien filings and timely verifying addresses of undelivered lien notices. We evaluated these controls by interviewing management and reviewing samples of lien notices sent to taxpayers and lien notices returned to the IRS as undelivered.

¹ Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320 (Mar. 2009).

² A judgmental sample is a nonstatistical sample, the results of which cannot be used to project to the population.



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Appendix II

Major Contributors to This Report

Augusta R. Cook, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations)
Carl Aley, Director
Tim Greiner, Audit Manager
Beverly Tamanaha, Acting Audit Manager
Bridgid Shannon, Lead Auditor
Michael Garcia, Senior Auditor
Steven Stephens, Senior Auditor
Mark Willoughby, Senior Auditor
Nicole DeBernardi, Auditor
Stephen Elix, Auditor



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Appendix III

Report Distribution List

Principal Deputy Commissioner
Office of the Commissioner – Attn: Chief of Staff C
Office of the Deputy Commissioner for Services and Enforcement SE
Deputy Commissioner, Small Business/Self-Employed Division SE:S
Deputy Commissioner, Wage and Investment Division SE:W
Director, Campus Compliance Services, Small Business/Self-Employed Division SE:S:CCS
Director, Collection, Small Business/Self-Employed Division SE:S:C
Director, Compliance, Wage and Investment Division SE:W:CP
Director, Collection Policy, Small Business/Self-Employed Division SE:S:C:CP
Chief Counsel CC
National Taxpayer Advocate TA
Director, Office of Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis RAS:O
Office of Internal Control OS:CFO:CPIC:IC
Audit Liaisons:
 Commissioner, Small Business/Self-Employed Division SE:S
 Commissioner, Wage and Investment Division SE:W



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Appendix IV

Outcome Measure

This appendix presents detailed information on the measurable impact that our recommended corrective action will have on tax administration. This benefit will be incorporated into our Semiannual Report to Congress.

Type and Value of Outcome Measure:

- Taxpayer Burden – Potential; 27,389 taxpayers whose representatives may not have been provided Letters 3172, *Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320*¹ (see page 4).

Methodology Used to Measure the Reported Benefit:

From a statistically valid sample of 133 NFTL cases, we identified 47 cases with representatives authorized to receive notifications at the time the liens were filed. From those 47 cases, we identified five cases for which IRS employees did not provide notice to taxpayer representatives, resulting in potential taxpayer burden. We are 90 percent confident that the range of potential violations is between 10,854 and 63,447. The sample was selected based on a confidence level of 90 percent, a precision rate of ± 2 percent, and an expected rate of occurrence of 2 percent. We projected the findings to the total population provided by the IRS of 728,439 NFTLs generated by the ALS between July 1, 2011, and June 30, 2012.

- Error rate = five (3.76 percent) out of 133 cases in which the taxpayer representative was not provided Letter 3172.
- Population = 728,439 NFTLs generated by the ALS between July 1, 2011, and June 30, 2012.
- Projection = $728,439 \times 3.76$ percent = 27,389 taxpayers whose representatives may not have been provided Letters 3172.

¹ *Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320* (Mar. 2009).



Appendix V

Synopsis of the Internal Revenue Service Collection and Notice of Federal Tax Lien Filing Processes

The collection of unpaid tax begins with a series of letters (notices) sent to the taxpayer advising of the debt and asking for payment of the delinquent tax. IRS computer systems are programmed to mail these notices when certain criteria are met. If the taxpayer does not respond to these notices, the account is transferred for either personal or telephone contact.

- IRS employees who make personal (face-to-face) contact with taxpayers are called revenue officers and work in various locations. The ICS¹ is used in most of these locations to track collection actions taken on taxpayer accounts.
- IRS employees who make only telephone contact with taxpayers work in call sites. The ACS is used in the call sites to track collection actions taken on taxpayer accounts.

When these efforts have been taken and the taxpayer has not paid the tax liability, designated IRS employees are authorized to file a lien by sending a NFTL² to appropriate local government offices. NFTLs protect the Federal Government's interest by attaching a claim to the taxpayer's assets for the amount of unpaid tax. The right to file a lien is created by I.R.C. Section 6321 when:

- The IRS has made an assessment and given the taxpayer notice of the assessment, stating the amount of the tax liability and demanding payment.
- The taxpayer has neglected or refused to pay the amount after the notice and demand for payment.

When designated employees request the filing of a NFTL using either the ICS or the ACS, the ALS processes the NFTL filing requests from both systems. In an expedited situation, employees can manually prepare the NFTL. Even for manually prepared NFTLs, the ALS controls and tracks the NFTLs and initiates subsequent lien notices³ to notify responsible parties of the NFTL filings and of their appeal rights. The ALS maintains an electronic database of all

¹ See Appendix VI for detailed descriptions of the IRS computer systems used in the filing of Notices of Federal Tax Lien.

² IRS Form 668(Y)(c), *Notice of Federal Tax Lien* (Oct. 1999).

³ IRS Letter 3172, *Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320* (Mar. 2009).



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open NFTLs and updates the IRS's primary computer records to indicate that a NFTL has been filed.

Most lien notices are mailed to taxpayers by certified or registered mail, rather than delivered in person. To maintain a record of the notices, the IRS prepares a certified mail listing (U.S. Postal Service Form 3877), which identifies each notice that is to be mailed. The lien notices and a copy of the certified mail listing are delivered to the U.S. Postal Service. A U.S. Postal Service employee ensures that all notices are accounted for, date stamps the list, and returns a copy to the IRS. The stamped certified mail listing is the only documentation the IRS has that certifies the date on which the notices were mailed. IRS guidelines require that the stamped certified mail listing be retained for 10 years after the end of the processing year.



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Appendix VI

Internal Revenue Service Computer Systems Used in the Filing of Notices of Federal Tax Liens

Automated Collection System (ACS) is a computerized call site inventory system that maintains balance-due accounts and return delinquency investigations. ACS function employees enter all of their case file information (online) on the ACS. The NFTLs requested using the ACS are uploaded to the ALS, which generates the NFTL¹ and related lien notices and updates the IRS's primary computer files to indicate that the NFTLs have been filed.

Automated Lien System (ALS) is a comprehensive database that prints the NFTLs and lien notices, stores taxpayer information, and documents all lien activity. Lien activities on both ACS and ICS cases are controlled on the ALS by Case Processing functions at the Cincinnati, Ohio, Campus.² Employees at the Cincinnati Campus process the NFTLs and respond to taxpayer inquiries using the ALS.

Integrated Collection System (ICS) is an IRS computer system with applications designed around each of the main collection tasks such as opening a case, assigning a case, building a case, performing collection activity, and closing a case. The ICS is designed to provide management information, create and maintain case histories, generate documents, and allow online approval of case actions. Lien requests made using the ICS are uploaded to the ALS. The ALS generates the NFTL and related lien notices and updates the IRS's primary computer files to indicate the NFTLs have been filed.

Integrated Data Retrieval System (IDRS) is an online data retrieval and data entry system that processes transactions entered from terminals located in campuses and other IRS locations. It enables employees to perform such tasks as researching account information, requesting tax returns, entering collection information, and generating collection documents. The IDRS serves as a link from campuses and other IRS locations to the Master File³ for the IRS to maintain accurate records of activity on taxpayers' accounts.

¹ IRS Form 668(Y)(c), *Notice of Federal Tax Lien*, (Oct. 1999).

² A campus is the data processing arm of the IRS. The campuses process paper and electronic submissions, correct errors, and forward data to the Computing Centers for analysis and posting to taxpayer accounts.

³ The Master File is the IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.



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Appendix VII

*Statutory Lien Reports Issued During
Fiscal Years 2007 Through 2012*

TIGTA, Ref. No. 2007-30-051, *Fiscal Year 2007 Statutory Review of Compliance With Lien Due Process Procedures* (Mar. 2007).

TIGTA, Ref. No. 2008-30-082, *Fiscal Year 2008 Statutory Review of Compliance With Lien Due Process Procedures* (Mar. 2008).

TIGTA, Ref. No. 2009-30-089, *Additional Actions Are Needed to Protect Taxpayers' Rights During the Lien Due Process* (Jun. 2009).

TIGTA, Ref. No. 2010-30-072, *Actions Are Needed to Protect Taxpayers' Rights During the Lien Due Process* (Jul. 2010).

TIGTA, Ref. No. 2011-30-051, *Challenges Remain When Processing Undeliverable Mail and Preventing Violations of Taxpayers' Rights During the Lien Due Process* (May 2011).

TIGTA Ref. No. 2012-30-057, *Problems Persist When Processing Undelivered Lien Notices and Notifying Taxpayers' Representatives* (May 2012).



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Appendix VIII

Management's Response to the Draft Report



COMMISSIONER
SMALL BUSINESS/SELF-EMPLOYED DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

JUL 12 2013

MEMORANDUM FOR MICHAEL E. MCKENNEY
ACTING DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Faris R. Fink 
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report – Fiscal Year 2013 Statutory Review of
Compliance With Lien Due Process Procedures
(Audit No. 201330001)

Thank you for the opportunity to review your draft report titled: "Fiscal Year 2013 Statutory Review of Compliance With Lien Due Process Procedures." We appreciate your acknowledgement of our continued high compliance with the legal requirement of notifying taxpayers when a notice of lien is filed and of our improvements with the procedural requirements of issuing notices to taxpayer representatives and resolving notices returned as undeliverable. We agree with your recommendations as stated in the report. We will continue to take actions to ensure all aspects of the lien notice process become equally compliant.

We concur with your Outcome Measures relative to the number of taxpayer representatives that may not have been notified when the notice of lien was filed. As stated in the report, we want to reiterate that in none of these cases were the taxpayer rights violated as the lien notice was timely sent to the taxpayer.

Attached is a detailed response outlining our corrective actions to address your recommendations.

If you have any questions, please contact me, or a member of your staff may contact Darren Guillot, Director, Enterprise Collection Strategy at 202-435-5762.

Attachment



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Attachment

RECOMMENDATION 1:

The Director, Enterprise Collection Strategy, SB/SE Division, should revise the NFTL request form to include a checkbox indicating whether a valid power of attorney is required to be sent a copy of the lien notice, and establish procedures requiring the lien unit to verify all lien requests in which the checkbox is blank.

CORRECTIVE ACTION:

We agree with the recommendation and will revise Form 12636, Request for Filing Notice of Federal Tax Lien. We will also modify procedures for the Centralized Lien Operation's processing of the form to include verification of missing Power of Attorney information.

IMPLEMENTATION DATE:

July 15, 2014

RESPONSIBLE OFFICIAL(S):

Director, Collection Policy (SB/SE)
Director, Campus Compliance Services (SB/SE)

CORRECTIVE ACTION MONITORING PLAN:

IRS will monitor this corrective action as part of our internal management system of controls.

RECOMMENDATION 2:

The Directors, Collection and Campus Compliance Services, SB/SE Division, and the Director, Compliance, Wage and Investment Division, should establish controls to ensure that the ACS Support function received date for undelivered lien notices is properly documented and that undelivered lien notices are researched timely.

CORRECTIVE ACTIONS:

1. Current Internal Revenue Manual (IRM) procedures in IRM 5.19.6.17.5 provide for the Automated Collection System Support (ACSS) received date to be documented on the Accounts Management System (AMS) for accounts no longer in Automated Collection System (ACS) status. A Servicewide Electronic Research Program (SERP) Alert will be issued and the IRM will be updated to reflect the ACSS received date is documented on either ACS or AMS dependent on where the case resides.
2. ACSS will begin using the NOTADD feature for systemic generation of the TC971 action code on Undelivered Liens.



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RESPONSIBLE OFFICIAL(S):

1. Director, Campus Compliance Services (SB/SE)
2. Director, Campus Compliance Services (SB/SE) and Director, Compliance, Wage and Investment Division

IMPLEMENTATION DATES:

1. SERP Alert – August 15, 2013
IRM Update - July 15, 2014
2. February 15, 2014

CORRECTIVE ACTION MONITORING PLAN:

IRS will monitor this corrective action as part of our internal management system of controls.