TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

Fiscal Year 2014 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property

August 5, 2014

Reference Number: 2014-30-053

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.

Phone Number / 202-622-6500
E-mail Address / TIGTACommunications@tigta.treas.gov
Website / http://www.treasury.gov/tigta

FISCAL YEAR 2014 REVIEW OF COMPLIANCE WITH LEGAL GUIDELINES WHEN CONDUCTING SEIZURES OF TAXPAYERS' PROPERTY

Highlights

Final Report issued on August 5, 2014

Highlights of Reference Number: 2014-30-053 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

IMPACT ON TAXPAYERS

Taking a taxpayer's property for unpaid tax is commonly referred to as a "seizure." To ensure that taxpayers' rights are protected, the IRS Restructuring and Reform Act of 1998 amended the seizure provisions in Internal Revenue Code (I.R.C.) Sections (§§) 6330 through 6344. These provisions govern many aspects of the seizure process from notification of the taxpayer through sale or redemption of the property.

WHY TIGTA DID THE AUDIT

TIGTA is required under I.R.C. § 7803(d)(1)(A)(iv) to annually evaluate the IRS's compliance with the legal seizure provisions to ensure that taxpayers' rights were not violated while seizures were being conducted. The overall objective of this review was to determine whether seizures conducted by the IRS complied with legal provisions set forth in I.R.C. §§ 6330 through 6344 and with the IRS's own internal procedures.

WHAT TIGTA FOUND

TIGTA reviewed a random sample of 50 of the 580 seizures conducted from July 1, 2012, through June 30, 2013, to determine whether the IRS complied with legal and internal guidelines when conducting each seizure.

In the majority of the seizures reviewed, the IRS followed all guidelines. However, in 14 seizures, TIGTA identified 19 instances in which the IRS did not comply with a particular I.R.C. requirement. Specifically, TIGTA found that:

- The sale of the seized property was not properly advertised. (I.R.C. § 6335(b))
- The balance-due letter sent to the taxpayer after sale proceeds were applied to the taxpayer's account did not show the correct remaining balance. (I.R.C. § 6340(c))
- The amount of the liability for which the seizure was made was not correct on the notice of seizure provided to the taxpayer. (I.R.C. § 6335(a))
- The notice of the intent to levy and the notice of the right to a hearing before the levy was not provided for each tax period listed on Form 668-B, *Levy*. (I.R.C. §§ 6330(a) and 6331(d))

When legal and internal guidelines are not followed, it could result in the abuse of taxpayers' rights. However, in the instances above, we did not identify any in which the taxpayers were adversely affected.

In addition, internal procedures do not require the IRS to retain a copy of all seizure sale advertisements, which would help them verify that their actions conformed with statutes, regulations, and Internal Revenue Manual procedural guidelines.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Director, Collection Policy, Small Business/Self-Employed Division, include an instruction in the Internal Revenue Manual that requires the Property Appraisal and Liquidation Specialist to retain a file copy of all print advertisements, a copy of any Internet advertisements and mail-in bid forms, and a text copy of information provided in any radio and television advertisements of seizure sales.

In their response to the report, IRS officials agreed with the recommendation and plan to take appropriate corrective action.

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

August 5, 2014

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED DIVISION

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2014 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property (Audit # 201430002)

This report presents the results of our review to determine whether seizures[1] conducted by the Internal Revenue Service (IRS) complied with legal provisions set forth in Internal Revenue Code (I.R.C.) Sections (§§) 6330 through 6344 and with the IRS's own internal procedures. The Treasury Inspector General for Tax Administration is required under I.R.C. § 7803(d)(1)(A)(iv) to annually evaluate the IRS's compliance with the legal seizure provisions to ensure that taxpayers' rights were not violated while seizures were being conducted. We have evaluated the IRS's compliance with the seizure provisions since Fiscal Year 1999. The audit is included in our Fiscal Year 2014 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 VII.

Copies of this report are also being sent to the IRS managers affected by the report recommendation.

If you have any questions, please contact me or Bryce Kisler, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations).

[1] Taking a taxpayer's property for unpaid tax is commonly referred to as a seizure.

Table of Contents

Abbreviations

FY	Fiscal Year
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
TIGTA	Treasury Inspector General for Tax Administration

Background

The collection of unpaid tax by the Internal Revenue Service (IRS) generally begins with letters to the taxpayer followed by telephone calls and personal contacts by an IRS employee. The IRS employees who make these personal contacts are referred to as revenue officers. Revenue officers consider the taxpayer's ability to pay the tax and discuss alternative payment options with them, such as an installment agreement or an offer in compromise.[1] If these actions have been taken and the taxpayer still has not fully paid the tax due, the revenue officer has the authority to take the taxpayer's funds or property for the payment of tax. Taking a taxpayer's property for unpaid tax is commonly referred to as a "seizure."

To ensure that taxpayer rights are protected, the IRS Restructuring and Reform Act of 1998[2] amended the seizure provisions in Internal Revenue Code (I.R.C.) Sections (§§) 6330 through 6344. These provisions and the IRS's internal procedures are very specific regarding how a seizure should be performed.[3]

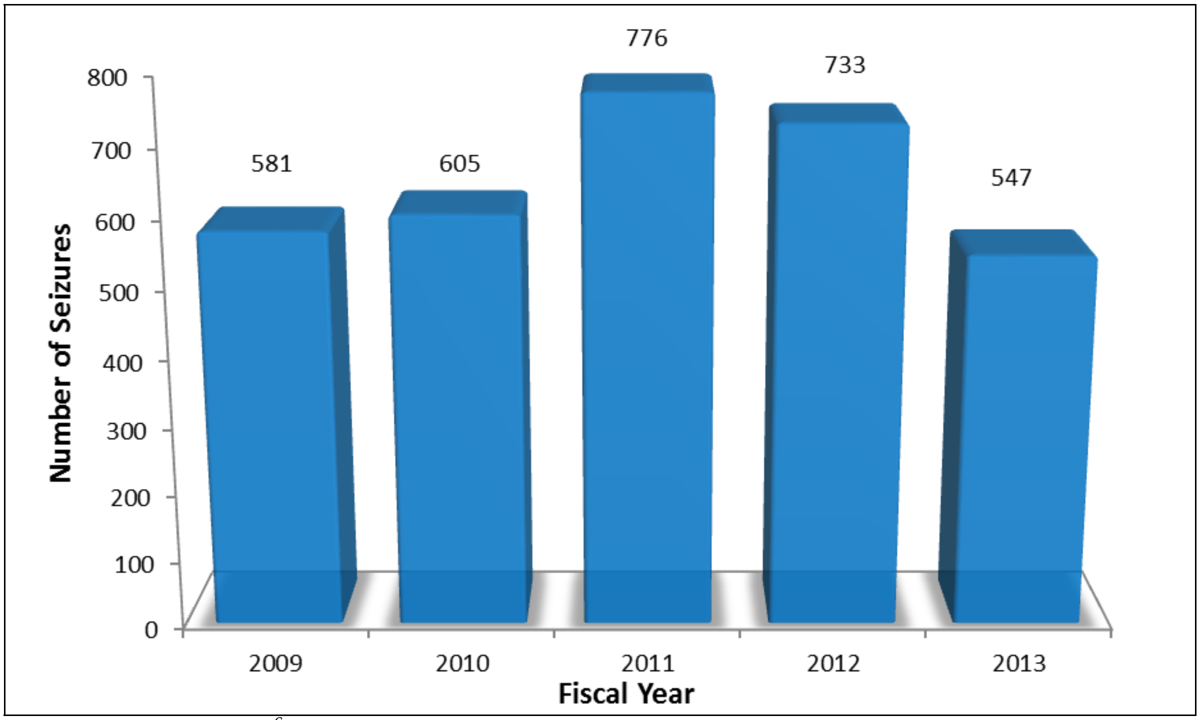
The Treasury Inspector General for Tax Administration (TIGTA) is required under I.R.C. § 7803(d)(1)(A)(iv) to annually evaluate the IRS's compliance with these legal seizure provisions. We have evaluated the IRS's compliance with the seizure provisions since Fiscal Year (FY)[4] 1999.[5]

Following passage of the IRS Restructuring and Reform Act of 1998, IRS seizures decreased from 10,090 in FY 1997 to 74 in FY 2000. The number of seizures has increased since FY 2000; however, seizures in FY 2013 were still only 5 percent of those reported for FY 1997. It is unlikely that the number of seizures will ever return to pre-1998 levels. Figure 1 illustrates the number of seizures made over the past five fiscal years.

---

[1] An offer in compromise is a proposal by a taxpayer to settle an unpaid account(s) for less than the full amount of the balance due.
[2] Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).
[3] See Appendix V for a synopsis of the applicable legal provisions.
[4] Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.
[5] See Appendix VI for a list of all prior audit reports issued on the IRS's compliance with seizure procedures.

Figure 1: IRS Seizures by Fiscal Year



Source: IRS Data Books.[6]

This review was performed during the period November 2013 through March 2014 with information received from the Small Business/Self-Employed Division Headquarters in New Carrollton, Maryland. 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.

[6] The IRS Data Book is a report that describes activities conducted by the IRS during the fiscal year.

Results of Review

Legal Provisions and Internal Procedures Were Not Always Followed When Conducting Seizures

A review of a random sample of 50 seizures from the 580 seizures that the IRS conducted from July 1, 2012, through June 30, 2013, showed that in the majority of seizures reviewed, the IRS followed legal and internal guidelines applicable to the respective case, and we did not identify any instances in which the taxpayers were adversely affected.[7] However, in 14 seizures, we identified 19 instances in which the IRS did not comply with a particular I.R.C. requirement.[8] Not following the legal and internal guidelines could result in the abuse of taxpayers' rights. Specifically, we found:

- Nine instances in which the sale of the seized property was not properly advertised. (I.R.C. § 6335(b))
- Four instances in which sales proceeds were applied to taxpayers' liabilities, but the required balance-due letters sent to the taxpayers did not show the correct remaining balance. (I.R.C. § 6340(c))
- Four instances in which the amount of the liability for which the seizure was made was not correct on the notice of seizure provided to the taxpayer. (I.R.C. § 6335(a))
- Two instances in which the notice of the intent to levy and the right to a hearing before the levy was not provided for each tax period on the Form 668-B, *Levy*.[9] (I.R.C. §§ 6330(a) and 6331(d))

Sales of seized properties were not always properly advertised

I.R.C. § 6335(b) requires that the IRS, as soon as practicable after the seizure of property, give notice to the owner and publish a notification in a newspaper distributed within the county where the seizure was made. If there is no newspaper published or generally circulated in the county, the IRS must post a notice at the post office nearest the place where the seizure is made, and in

---

[7] Our review included a total of 58 guidelines for each seizure. The guidelines applicable for each seizure vary due to the timing between the date of seizure and date of our review. For example, at the time of our review, the sale for the seized property may not have been advertised, the sale may have been advertised but not yet occurred, the property may have been redeemed or released prior to sale, or the property may have been sold.
[8] Five seizures had two occurrences in which the IRS did not comply with a particular I.R.C. requirement.
[9] A levy is a means to take property by legal authority to satisfy a tax debt. The IRS uses a levy as a tool to collect on balance-due accounts that are not being paid voluntarily.

not less than two other public places. The notice must specify the property to be sold and the time, place, manner, and conditions of the sale thereof.

We identified nine seizures in which the payment terms were not correctly stated in the newspaper notice. The Internal Revenue Manual (IRM) requires that the notice of sale contain the description of the property; the date, time, and place of sale; payment terms; and information on grouping of property.[10] The IRS has since revised the IRM to require that the advertisement contain the same information as the notice of sale,[11] so we are not making any new recommendations for this issue.

Balance-due letters sent to the taxpayers did not always show the correct remaining balance

I.R.C. § 6340(a) requires the IRS to keep a record of all sales of property. The record should include the tax for which any such sale was made, the dates of the seizure and sale, the name of the party assessed, all proceedings in making the sale, the amount of expenses, the names of the purchasers, and the date of the deed or certificate of sale of personal property. I.R.C. § 6340(c) requires that the taxpayer be furnished the record of sale under subsection (a) (other than the names of the purchasers), the amount from such sale applied to the taxpayer's liability, and the remaining balance of such liability.

The IRM[12] lists three documents to be retained in the permanent record and to be provided to the taxpayer. Those documents are: Record 21, *Record of Seizure and Sale,*[13] Form 2434-B, *Notice of Encumbrances Against or Interests in Property Offered for Sale*, and Letter 3074, *Transmittal Letter Providing Balance Remaining on the Account after Application of Proceeds.* We identified four seizures in which the remaining balance provided to the taxpayer was not accurate. However, because the errors did not appear to be systemic in nature, we are not making any recommendations for this issue.

Taxpayers were not always provided a notice of seizure with a correct liability balance for which the seizure was made

I.R.C. § 6335(a) requires that the IRS, as soon as practicable after the seizure of property, provide the owner of the property with a notice in writing that specifies the liability for which the seizure was made and an accounting of the property seized.

[10] IRM 5.10.4.12 (4) (Jul. 3, 2009).
[11] IRM 5.10.4.14 (1) (Jun. 28, 2013).
[12] IRM 5.10.6.12 (2) (Jul. 3, 2009).
[13] Record 21 is a three-part form that documents various aspects of the seizure and sale process. It includes information such as the assessments under which the seizure was made, description of the property seized, information regarding the advertisement of the sale, the proceeds and expenses of the seizure and sale, and the date on which the certificate of sale was issued and to whom.

The IRM[14] provides guidance on completing Form 2433, *Notice of Seizure*.[15] It requires that the liability shown on Form 2433 agree with the taxpayer's total amount due for the tax modules[16] listed on Form 668-B. This amount should include all accruals and match the Total Amount Due on Form 668-B. If there is a difference in amount, it should be documented in the Integrated Collection System[17] history. The items of property seized should be described and identified with reasonable certainty in an inventory listed on Form 2433 or in an attachment to Form 2433. We identified four seizures in which the respective Forms 2433 provided to the taxpayers did not show the correct liability for which the seizures were made. However, because the errors did not appear to be systemic in nature, we are not making any recommendations for this issue.

The IRS did not provide notice of the intent to levy and the right to a hearing before the levy for every period listed on Form 668-B

I.R.C. § 6330(a) requires that a levy may not be made on any property or right to property of any person, unless the IRS has notified that person in writing of his or her right to a hearing before the levy is made. The notice is required for all the taxable periods to which the unpaid tax relates. I.R.C. § 6331(d) also requires that a levy can be made only after the IRS has notified the taxpayer, in writing, of the intention to make the levy no less than 30 calendar days before the day of the levy.

The IRM[18] requires that for each tax period listed on Form 668-B, a Letter 1058, *Final Notice, Notice of Intent to Levy and Notice of Your Right to a Hearing*, must have been provided to the taxpayer at least 30 calendar days before the seizure. We identified two seizures for which a Letter 1058 was not provided for each liability shown on the respective Form 668-B. However, because the number of errors was small and they did not appear to be systemic in nature, we are not making any recommendations for this issue.

Internal Guidelines for Conducting Seizures and Sales Can Be Improved

In addition to the legally required advertising, the IRM[19] states that additional classified or spot advertisements should be considered to attract bidders. For example, the IRS may advertise sales on the radio, in television spot announcements, and in trade journals.[20] In addition, all sales

[14] IRM Exhibit 5.10.3-4 (Jan. 22, 2008).
[15] Form 2433 is the taxpayer's receipt for the seized property. The document specifies the sum demanded – for personal property, a list of the property seized; and for real property, a description of the property seized.
[16] Tax module refers to each tax return filed by the taxpayer for a specific period (year and quarter) during a calendar year for each type of tax.
[17] The Integrated Collection System is an automated system used to control and monitor delinquent cases assigned to revenue officers in the field offices.
[18] IRM 5.10.1.7 (1) (Mar. 7, 2009).
[19] IRM 5.10.4.14 (2) (Jun. 28, 2013).
[20] IRM 5.10.4.14.1 (2) (Jun. 28, 2013).

should be posted on the Property Appraisal and Liquidation Specialist[21] website. Advertisements other than the legal advertisement are not required to include the time, place, manner, and conditions of the sale; however, if they are included, they must be the same as on the notice provided to the taxpayer.[22]

The IRM has no requirement for the Property Appraisal and Liquidation Specialists to maintain a copy of all print advertisements, copies of Internet advertisements or mail-in bid forms included in the respective advertisements, nor are they required to retain a copy of the text used in radio and television advertisements, when applicable. However, IRS internal procedures[23] require a post-review of the forms and documents to verify whether the actions conformed to statutes, regulations, and IRM procedural guidelines which is difficult to accomplish without copies of the advertisements.

Recommendation

The Director, Collection Policy, Small Business/Self-Employed Division, should:

Recommendation 1: Include an instruction in the IRM that requires the Property Appraisal and Liquidation Specialist to retain a file copy of all print advertisements, a copy of any Internet advertisements and mail-in bid forms, and a text copy of information provided in any radio and television advertisements of seizure sales.

> ***Management's Response:*** IRS management agreed with this recommendation. They will revise IRM 5.10.4 to include an instruction to maintain a copy in the seizure file of any print advertisements, Internet advertisements, mail-in bid forms, and a text copy of any radio and television advertisements for sales of seized property.

[21] The Property Appraisal and Liquidation Specialists serve as the technical authority in appraising property proposed for seizure, take custody of the property after the seizure, and are generally responsible for all further sale-related actions.
[22] IRM 5.10.4.14 (1) (Jun. 28, 2013).
[23] IRM 5.10.6.11 (1) (Jul. 3, 2009).

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine whether seizures[1] conducted by the IRS complied with legal provisions set forth in I.R.C. §§ 6330 through 6344 and with the IRS's own internal procedures.[2] To accomplish our objective, we:

I. Obtained documentation of national guidelines provided to employees; identified IRS systems, policies, and practices for ensuring compliance with legal provisions and internal procedures related to seizures; and determined how these tools were used.

II. Selected and reviewed a random sample of 50 of the 580 seizures conducted by the IRS from July 1, 2012, through June 30, 2013. We reviewed the sample of seizures to determine whether the IRS complied with legal provisions and internal procedures, and whether the proceeds and applicable expenses of the seizures and sales were properly recorded to the taxpayers' accounts on the IRS's main computer system. We used a random sample to ensure that each of the 580 seizures had an equal chance of being selected.

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 Small Business/Self-Employed Division Collection function's policies, procedures, and practices for conducting seizures of taxpayers' property under the provisions of I.R.C. §§ 6330 through 6344.

[1] Taking a taxpayer's property for unpaid tax is commonly referred to as a seizure.
[2] This audit was not intended to determine whether the decision to seize was appropriate or to identify the cause of any violations.

Appendix II

Major Contributors to This Report

Nancy A. Nakamura, Assistant Inspector General for Audit (Compliance and Enforcement Operations)
Bryce Kisler, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations)
Carl L. Aley, Director
Glen J. Rhoades, Audit Manager
Beverly K. Tamanaha, Acting Audit Manager
Richard J. Viscusi, Acting Audit Manager
Janis Zuika, Lead Auditor
Charles S. Nall, Senior Auditor

Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Deputy Commissioner for Services and Enforcement SE
Deputy Commissioner, Small Business/Self-Employed Division SE:S
Director, Field Collection, Small Business/Self-Employed Division SE:S:FC
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 Liaison: Commissioner, Small Business/Self-Employed Division SE:S

Appendix IV

Outcome Measure

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

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Actual; 14 taxpayers for whom the IRS did not comply with legal provisions and internal procedures when conducting seizures[1] (see page 3).

Methodology Used to Measure the Reported Benefit:

We selected and reviewed a random sample of 50 of the 580 seizures conducted by the IRS from July 1, 2012, through June 30, 2013. While we did not identify any instances in which the taxpayers were adversely affected, not adhering to legal and internal guidelines could result in the abuse of taxpayers' rights.

[1] Taking a taxpayer's property for unpaid tax is commonly referred to as a seizure.

Appendix V

Synopsis of Selected Legal Provisions for Conducting Seizures

I.R.C. § 6330 requires the IRS to issue the taxpayer a notice of his or her right to a hearing prior to any seizure[1] action. The notice must be 1) given in person, 2) left at the taxpayer's home or business, or 3) mailed as certified-return receipt requested no fewer than 30 calendar days before the day of the seizure. The notice must explain in simple terms 1) the amount owed, 2) the right to request a hearing during the 30-calendar-day period, and 3) the proposed action by the IRS and the taxpayer's rights with respect to such action.

The statute of limitations for collection is suspended from the time a taxpayer requests a hearing and while such hearings and appeals are pending, except when the underlying tax liability is not at issue in the appeal and the court determines that the IRS has shown good cause not to suspend the seizure. No limitation period may expire before 90 calendar days after a final determination. These procedures do not apply if the collection of tax is at risk.

I.R.C. § 6331 authorizes the IRS to seize a taxpayer's property for unpaid tax after sending the taxpayer a 30-calendar-day notice of intent to levy.[2] This section also prohibits seizure 1) during a pending suit for the refund of any payment of a divisible tax, 2) before a thorough investigation of the status of any property subject to seizure, or 3) while either an offer in compromise[3] or an installment agreement is being evaluated and, if necessary, for 30 additional calendar days during which the taxpayer may appeal the rejection of the offer in compromise or installment agreement.

I.R.C. § 6332 requires that a third party in possession of property subject to seizure surrender such property when a levy notice is received. It contains sanctions against third parties who do not surrender such property when a levy notice is received.

I.R.C. § 6333 requires that a third party with control of books or records containing evidence or statements relating to property subject to seizure exhibit such books or records to the IRS when a levy notice is received.

I.R.C. § 6334 enumerates property exempt from seizure. The exemption amounts are adjusted each year and included $8,370 for the period July 1 through December 31, 2011, and $8,570 for

[1] Taking a taxpayer's property for unpaid tax is commonly referred to as a seizure.
[2] A levy is a means to take property by legal authority to satisfy a tax debt. The IRS uses a levy as a tool to collect on balance-due accounts that are not being voluntarily paid.
[3] An offer in compromise is a proposal by a taxpayer to settle an unpaid account(s) for less than the full amount of the balance due.

the period January 1 through June 30, 2012, for fuel, provisions, furniture, and personal effects; and $4,180 for the period July 1 through December 31, 2011, and $4,290 for the period January 1 through June 30, 2012, for books and tools necessary for business purposes. Also, any primary residence, not just the taxpayer's, is exempt from seizure when the amount owed is $5,000 or less. Seizure of the taxpayer's principal residence is allowed only with the approval of a U.S. District Court judge or magistrate. Property used in an individual taxpayer's business is exempt except with written approval of the Area Office[4] Director, and the seizure may be approved only if other assets are not sufficient to pay the liability.

I.R.C. § 6335 contains procedures for the sale of seized property. Notice must be given to the taxpayer; the property must be advertised in the county newspaper or posted at the nearest U.S. Postal Service office; and such notices shall specify the time, place, manner, and conditions of sale. This Section requires that the property be sold no fewer than 10 calendar days or no more than 40 calendar days from the time of giving public notice. Finally, this section expressly prohibits selling seized property for less than the minimum bid.

I.R.C. § 6336 contains procedures for the accelerated disposition of perishable property. This is property such as fresh food products or any property that requires prohibitive expenses to maintain during the normal sale time period. The property may either be sold quickly or returned to the taxpayer in exchange for payment of a bond.

I.R.C. § 6337 allows the taxpayer to redeem seized property prior to sale by paying the amount due plus the expenses of the seizure. It also allows a taxpayer to redeem real property within 180 calendar days of the sale by paying the successful bidder the purchase price plus 20 percent per annum interest.

I.R.C. § 6338 requires that the IRS give purchasers of seized property a certificate of sale upon full payment of the purchase price. This includes issuing a deed to real property after expiration of the 180-calendar-day period required by I.R.C. § 6337. The deed is exchanged for the certificate of sale issued at the time of the sale.

I.R.C. § 6339 provides the legal effect of the certificate of sale for personal property and the transfer deed for real property.

I.R.C. § 6340 requires that each Area Office keep a record of all sales of seized property. This record must include the tax for which such sale was made, the dates of seizure and sale, the name of the party assessed, all proceedings in making such sale, the amount of expenses, the names of the purchasers, and the date of the deed or certificate of sale of personal property. The taxpayer will be furnished: 1) the information above except the purchasers' names, 2) the amount of such sale applied to the taxpayer's liability, and 3) the remaining balance of such liability.

I.R.C. § 6341 allows expenses for all seizure and sale cases.

---

[4] A geographic organizational level used by IRS business units and offices to help their specific types of taxpayers understand and comply with tax laws and issues.

I.R.C. § 6342 enumerates how the proceeds of a seizure and sale are to be applied to a taxpayer's account. Proceeds are applied first to the expenses of the seizure and sale proceedings. Any remainder is then applied to the taxpayer's liability.

I.R.C. § 6343 outlines various conditions under which a seizure may be released and property returned to the taxpayer. These conditions include full payment of the liability, determination of a wrongful seizure, financial hardship, *etc*. This section allows a consent agreement between the United States and either the taxpayer or the National Taxpayer Advocate[5] when the return of seized property would be in the taxpayer's best interest.

I.R.C. § 6344 contains cross-references for I.R.C. §§ 6330 through 6344.

Public Law Number 105-206 (IRS Restructuring and Reform Act of 1998)[6] § 3443 required the IRS to implement a uniform asset disposal mechanism by July 22, 2000, for sales of seized property under I.R.C. § 6335. This mechanism was designed to remove revenue officers[7] from participating in the sales of seized assets.

Public Law Number 105-206 (IRS Restructuring and Reform Act of 1998) § 3421 requires the IRS to employ a supervisory review of seizures before action is taken.

[5] The Taxpayer Advocate Service is an independent organization within the IRS that helps taxpayers resolve problems with the IRS and recommends changes to prevent problems.
[6] Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).
[7] The employees who make personal contacts with taxpayers about the collection of unpaid tax are referred to as revenue officers.

Appendix VI

Prior Reports on Compliance With Seizure Procedures

TIGTA, Ref. No. 1999-10-072, *The Internal Revenue Service Needs to Improve Compliance With Legal and Internal Guidelines When Taking Taxpayers' Property for Unpaid Taxes* (Sept. 1999).

TIGTA, Ref. No. 2000-10-114, *The Internal Revenue Service Has Significantly Improved Compliance With Legal and Internal Guidelines When Seizing Taxpayers' Property* (Aug. 2000).

TIGTA, Ref. No. 2001-10-061, *Letter Report: The Internal Revenue Service Complied With Legal and Internal Guidelines When Seizing Property for Payment of Tax* (May 2001).

TIGTA, Ref. No. 2002-10-005, *The Internal Revenue Service Has Taken Significant Actions, But Increased Oversight Is Needed to Fully Implement the Uniform Asset Disposal Mechanism* (Nov. 2001).

TIGTA, Ref. No. 2002-40-155, *The Internal Revenue Service Continues to Comply With the Law When Seizing Taxpayers' Property* (Aug. 2002).

TIGTA, Ref. No. 2003-40-115, *Fiscal Year 2003 Statutory Audit of Compliance With Seizure Procedures* (May 2003).

TIGTA, Ref. No. 2004-30-149, *Legal and Internal Guidelines Were Not Always Followed When Conducting Seizures of Taxpayers' Property* (Aug. 2004).

TIGTA, Ref. No. 2005-30-091, *Fiscal Year 2005 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property* (Jun. 2005).

TIGTA, Ref. No. 2006-30-113, *Fiscal Year 2006 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property* (Aug. 2006).

TIGTA, Ref. No. 2007-30-109, *Fiscal Year 2007 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property* (Jul. 2007).

TIGTA, Ref. No. 2008-30-126, *Fiscal Year 2008 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property* (Jun. 2008).

TIGTA, Ref. No. 2009-30-077, *Fiscal Year 2009 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property* (May 2009).

TIGTA, Ref. No. 2010-30-049, *Fiscal Year 2010 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property* (May 2010).

TIGTA, Ref. No. 2011-30-049, *Fiscal Year 2011 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property* (May 2011).

TIGTA, Ref. No. 2012-30-072, *Fiscal Year 2012 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property* (Jun. 2012).

TIGTA, Ref. No. 2013-30-061, *Fiscal Year 2013 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property* (Jun. 2013).

Appendix VII

Management's Response to the Draft Report

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

COMMISSIONER
SMALL BUSINESS/SELF-EMPLOYED DIVISION

JUL 18 2014

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

FROM: Karen Schiller
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report – Fiscal Year 2014 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property (Audit # 201430002)

Thank you for the opportunity to review your draft report titled "Fiscal Year 2014 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property". We agree with your recommendation and appreciate your acknowledgment that no taxpayers were adversely affected by any of the procedural errors that you observed.

This is the 16th consecutive year that TIGTA has evaluated our compliance with the Internal Revenue Code provisions and internal guidance related to seizures. There are more than 50 requirements, legal or internal, that our employees must follow when conducting a seizure. Consistent with the results of the evaluations in previous years, you found that our employees followed all applicable legal and internal guidelines in the majority of seizures you reviewed. During your review, you looked at 50 seizures to determine whether all 58 requirements were completed. Out of the 2900 potential findings (58 requirements for each of 50 seizures), you found only 19 instances where we did not complete the requirement. We are proud of this record of success and we appreciate your acknowledgment that we generally followed all legal and internal guidelines.

You have, however, made a recommendation for improving our internal controls. Specifically, you suggested that our Property Appraisal and Liquidation Specialists (PALS) retain a copy of all advertisements of a sale in the case file, including any advertising of a sale that goes beyond what is legally required. While there are no statutory or legal requirements for this additional marketing effort, the Internal Revenue Manual (IRM) directs that certain aspects of any supplemental advertising (time, place, manner, and conditions of sale) be identical to the original notice of sale. We agree that requiring the PALS to retain a copy of the additional advertising will allow us to ensure that our internal requirements for this advertisement are met. Accordingly, we will update the IRM to include an instruction that a copy of any additional advertisement(s) be maintained.

We agree with the outcome measure as described in the report.

Attached is a detailed response with our corrective action to your recommendation. If you have any questions, please contact me, or a member of your staff may contact Darren John Guillot, Director, Enterprise Collection Strategy, at (202) 317-3583.

Attachment

Attachment

RECOMMENDATION 1:
The Director, Collection Policy, Small Business/Self-Employed Division, should include an instruction in the IRM that requires the Property Appraisal and Liquidation Specialist to retain a file copy of all print advertisement, a copy of any Internet advertisements and mail-in bid forms, and a text copy of information provided in any radio and television advertisements of seizure sales.

CORRECTIVE ACTION:
We will revise IRM 5.10.4 to include an instruction to maintain a copy of any print advertisements, internet advertisements, mail in bid forms, and a text copy of any radio and television advertisements for sales of seized property in the seizure file.

IMPLEMENTATION DATE:
February 15, 2016

RESPONSIBLE OFFICIAL:
Director, Collection Policy, Small Business/Self-Employed

CORRECTIVE ACTION MONITORING PLAN:
IRS will monitor this corrective action as part of our internal management system of controls.