



*Seizure Sale Procedures Were Not Always
Followed and Can Be Improved*

May 27, 2015

Reference Number: 2015-30-036

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

Phone Number / 202-622-6500

E-mail Address / TIGTACommunications@tigta.treas.gov

Website / <http://www.treasury.gov/tigta>



HIGHLIGHTS

SEIZURE SALE PROCEDURES WERE NOT ALWAYS FOLLOWED AND CAN BE IMPROVED

Highlights

Final Report issued on May 27, 2015

Highlights of Reference Number: 2015-30-036 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

IMPACT ON TAXPAYERS

The IRS established the Property Appraisal and Liquidation Specialist (PALS) position to ensure that taxpayers' rights are protected when property is seized for unpaid tax. Proceeds from the sales of seized assets are applied to the taxpayers' tax obligations.

WHY TIGTA DID THE AUDIT

Over the past four fiscal years (2011 through 2014), the IRS has received approximately \$114 million in proceeds from the sale of seized taxpayer assets. This audit was initiated to analyze the IRS's seizure and sale program to determine whether the program can be improved to increase revenue and to further protect taxpayer rights.

WHAT TIGTA FOUND

For sampled cases, seized assets were properly inventoried, safeguarded, and handled professionally. However, the written sale plans developed by the PALS provided varying amounts of detail for the actions to be performed on the day of the sale. More consistent and specific sale plans could improve managerial oversight and ensure consistent treatment of seized assets.

Personal items found in seized assets were not always properly documented when they were returned to taxpayers. Additionally, there is no requirement for removing taxpayer information from installed systems in vehicles. Such information could present a security risk if a third-party purchaser gained access to it.

TIGTA also identified several strategies that the IRS should consider to potentially increase the number of bidders when selling seized assets.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS: 1) require the PALS to consistently prepare a detailed sale plan once custody of the seized property has been accepted; 2) ensure that the return of all personal items from seized vehicles is documented; and 3) require the PALS to follow Internal Revenue Manual (IRM) requirements for conducting a sale adjournment and recalculating the minimum bid, as well as ensure that any adjustments are supported by the facts of the situation and properly documented.

In their response to the report, IRS officials agreed with seven of the nine recommendations. IRS officials disagreed with two recommendations to update the IRM for: 1) indirect expenses of seizure sales that can be charged to the taxpayer and 2) return of license plates from seized vehicles that are sold. TIGTA maintains that the appropriate IRM sections should be updated to provide clear guidance for IRS managers and employees to follow.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

May 27, 2015

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED
DIVISION

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Seizure Sale Procedures Were Not Always
Followed and Can Be Improved (Audit # 201330016)

This report presents the results of our review to analyze the Internal Revenue Service's seizure and sale program to determine whether the program can be improved to increase revenue and to further protect taxpayer rights. This audit is included in our Fiscal Year 2015 Annual Audit Plan and addresses the major management challenge of Tax Compliance Initiatives.

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

Copies of this report are also being sent to the Internal Revenue Service managers affected by the report recommendations. If you have any questions, please contact me or Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations).



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Abbreviations

FY	Fiscal Year
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
PALS	Property Appraisal and Liquidation Specialist
RRA 98	Restructuring and Reform Act of 1998



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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 (revenue officer).¹ Revenue officers consider the taxpayer's ability to pay the tax and discuss the availability of alternative payment methods with the taxpayer, such as an installment agreement or an offer in compromise. Prior to levying or seizing a taxpayer's property, the IRS must provide notice to the taxpayer and an opportunity for the taxpayer to request a Collection Due Process hearing.² If these actions have been taken and the taxpayer has not fully paid the tax due, the revenue officer has the authority to take the taxpayer's funds or property to pay the tax. Taking a taxpayer's property for unpaid tax is commonly referred to as a seizure. In Fiscal Year (FY) 2014, the IRS received more than \$22 million in proceeds from closed seizures that were applied to taxpayers' outstanding tax liabilities. Figure 1 reflects the proceeds received from seizure enforcement actions from FY 2010 through FY 2014.

Figure 1: Proceeds From Closed Seizures

	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Closed Seizures	618	695	723	677	424
Total Proceeds Received	\$20,330,100	\$30,378,081	\$29,834,025	\$30,936,893	\$22,558,583

Source: Collection Activity Reports for FYs 2010 through 2014.

¹ See Appendix IV for a glossary of terms.

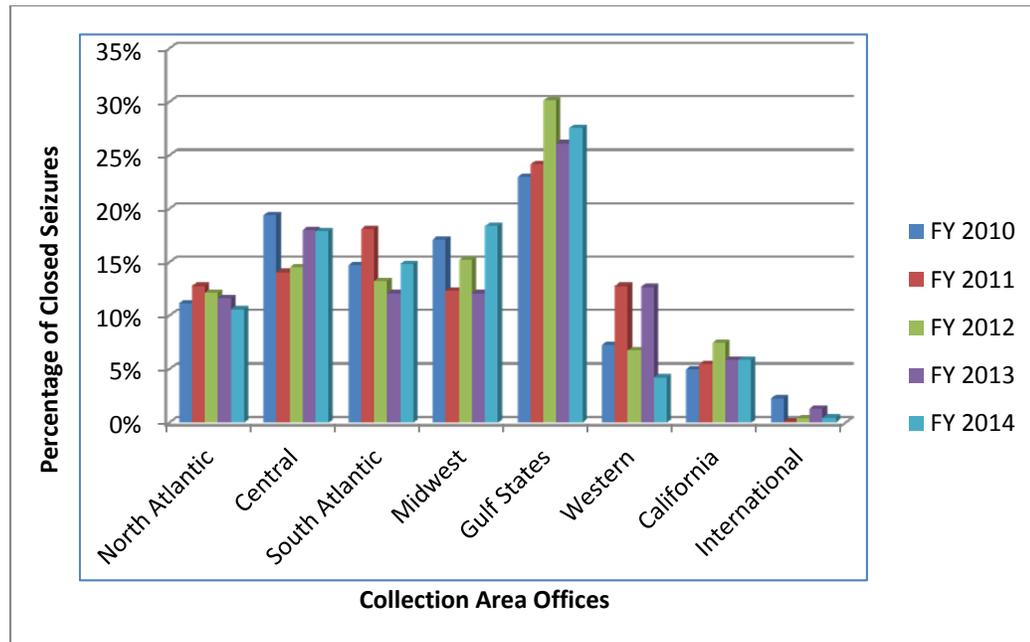
² I.R.C. § 6331(d) requires the IRS to notify the taxpayer of its intent to levy. Additionally, pursuant to I.R.C. § 6330, on the first Notice of Intent to Levy on an account, taxpayers are entitled to a Collection Due Process hearing in which they can raise numerous issues including whether the underlying liability is owed or whether the debt can be satisfied through a collection alternative.



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Figure 2 reflects the percentage of closed seizures by Area Office from FYs 2010 through 2014.

Figure 2: Collection Area Office Closed Seizures



Source: Collection Activity Reports for FYs 2010 through 2014.

Congress enacted the IRS Restructuring and Reform Act of 1998 (RRA 98)³ as a result of receiving taxpayer complaints about the IRS being overly aggressive in enforcing the tax laws. As part of RRA 98, the IRS was required to implement a consistent process for the sales of seized property. This process was designed to remove revenue officers from participating in the sales of seized assets. Key protections were put in place to ensure that property was not sold for less than the established “minimum bid.” The IRS established the Property Appraisal and Liquidation Specialist (PALS) position to be responsible for managing and selling seized property. There are three PALS Territories – East, Central, and West – that are responsible for covering the seven Field Collection (hereafter referred to as the Field) Area Offices (North Atlantic, Central, South Atlantic, Midwest, Gulf States, Western, and California).

Coordination between the revenue officer and the PALS is essential before, during, and after the seizure. Prior to the seizure, the revenue officer consults with the PALS on the value of the asset and any potential issues with selling the asset after it is seized. During the seizure, the revenue officer coordinates with the PALS to discuss any moving, towing, and storage needs for the seized asset. After the seizure, the revenue officer inventories and secures the property and

³ 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.).



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transfers custody to the PALS, who will generally be responsible for paying the expenses that occur after the initial seizure and all further sale-related actions.

This review was performed at the IRS offices in San Jose, California; Plantation, Florida; Kansas City, Missouri; New York, New York; and San Antonio, Texas; various seizure sale locations;⁴ and with information obtained from the Small Business/Self-Employed Division Headquarters in New Carrollton, Maryland, during the period March through December 2014. 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.

⁴ San Jose, California; Plantation, Florida; Kansas City, Kansas; Shawnee, Kansas; New York, New York; and Bulverde, Texas.



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Results of Review

During our review, we attended six IRS auctions and reviewed a sample of 44 seizure cases. Results showed that the IRS properly safeguarded and accounted for seized taxpayer property. However, the PALS did not always:

- Complete a detailed sale plan.
- Properly document seized personal items returned to the taxpayers.
- Follow procedures for changing minimum bids.

Additionally, the IRS should consider additional sales and marketing opportunities that could provide improvements in the seizure and sale process.

Seized Assets Were Properly Inventoried, Safeguarded, and Handled Professionally

The Internal Revenue Manual (IRM) requires the PALS to complete certain sale actions when conducting a public auction.⁵ The PALS sales responsibilities include: grouping and placing property into lots; organizing the sale area; greeting bidders; answering questions; registering bidders; conducting the auction; recording bid amounts; collecting money; and preparing the Form 2435, *Certificate of Sale of Seized Property*. The PALS should conduct the sale with at least one other IRS employee present to assist. The assisting employee(s) may be any employee not in the revenue officer job series.

We reviewed the case documentation for a judgmental⁶ sample of 44 seizures from the IRS Auction website and the seizure logs from October 2013 through February 2014. The cases selected represented various types of property seized by the IRS and were either posted on the auction website or released prior to sale. For all 44 seizures, the PALS adequately safeguarded and accounted for the seized taxpayer property after accepting custody of it. In the cases that resulted in the seized property being sold, the PALS accurately posted the proceeds and sale expenses to the taxpayers' accounts.

We also attended six IRS auctions between June and September 2014 to determine if the PALS properly conducted the sales according to IRM procedures. For the sales we attended, the PALS conducted the sales in a professional manner, greeted and registered the bidders, answered bidder questions, and timely initiated the auction. The PALS effectively made the announcement to

⁵ IRM 5.10.5.5 (August 4, 2014).

⁶ A judgmental sample is a nonprobability sample, the results of which cannot be projected to the population.



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start the sale and made the official announcement of the conditions under which the property would be sold. During these sales, the PALS had employees assist them who were not revenue officers, and all items were safeguarded and protected.

At one sale we attended, numerous items were being auctioned and sold. To make the process more efficient, the PALS used a local database program that allowed them to log in the bidders and the property being sold. Once the auction was completed, the program made it possible to efficiently generate certificates of sale to the appropriate bidders that listed the specific items they purchased during the sale.

Sale Plans Could Be More Consistent and Detailed

Once a taxpayer's property is seized and the inventory has been completed, the PALS begins preparations for the sale and is responsible for all sale-related activities. The IRM requires the PALS to develop a written sale plan no later than 14 calendar days prior to the sale using a standardized format.⁷ However, the IRM does not specify the standardized format to be used or any details about what should be included in the sale plan. After the sale plan is completed, the PALS is required to submit it to his or her manager for approval.

We identified three different informal sale plan templates being used by the PALS, which varied based on the type and size of the sale – sealed bid, simple, or large lot. The sale plans that we reviewed provided varying amounts of detail for the actions to be performed on the day of the sale. Although the PALSs are meeting the requirement to prepare and use a sale plan, the plans could be more detailed and updated throughout the sale process. Specifically, sales plans should (if applicable) include details about:

- Expenses to be incurred (towing, moving, locksmith).
- Storage and protection of the property.
- Advertising to be performed.
- Notices of sales posting locations.
- Steps to take during the auction (actual location, signage, notification of courthouse for property sales).
- Actions to take if the minimum bid is not reached.
- Consideration of contractor services.
- Consideration of Government bidding.

⁷ IRM 5.10.4.1.1 (August 4, 2014).



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moving and towing costs; advertising strategy; where the notice of sale will be posted; a list of sale expenses; actions to take if the minimum bid is not reached (adjourn the sale, release the property to the taxpayer, or bid in for the Government); and whether a contractor should be considered.

Management's Response: IRS management agreed with this recommendation. They will provide guidance on creating a sale plan to the PALS. This guidance will address what the PALS may want to consider including in the sale plan depending on the complexity of the sale. They will also remind the PALS of the importance of preparing a sales plan appropriate for the complexity of the sale after the seizure has occurred.

Office of Audit Comment: Although the IRS agreed to provide the PALS with additional guidance on creating a sale plan, the planned corrective action does not include an update to the IRM. We continue to believe the IRS should update the IRM to ensure that the PALSs are consistent when preparing the sale plans and detailed guidance is readily available for the execution and oversight of the sale process.

Recommendation 2: Update the IRM to clarify if indirect sale expenditures, such as the renting or leasing of equipment, can be charged to the taxpayer.

Management's Response: IRS management disagreed with this recommendation. The IRS indicated the IRM and the Treasury Regulation already provide that the expenses allowed include the "actual expense incurred in connection with the sale" in addition to expenses for the "protection and preservation of the property." Internal controls also require PALS management review and approval of expenses applied to the taxpayer's account. IRS management believes the expenses referenced in this report are actual expenses incurred at the respective sales for the safety and convenience of bidders.

Office of Audit Comment: We believe careful consideration of sale expenses is prudent because these costs are charged directly to taxpayers who already have tax delinquencies. The IRM does not specifically permit expenses for the "convenience of bidders" or IRS employees such as those referenced in the report. Some expenses did not directly relate to the seized property, and we question whether these expenses should have been charged to the taxpayer or if they should have instead been an IRS expense. We maintain that the IRM should be updated to clarify for the PALSs and their managers what types of indirect expenses related to the sale can be charged to the taxpayer.

Seized Property Procedures Are Incomplete and Not Always Followed

The IRS did not always properly document when personal items found in seized assets were returned to taxpayers. Additionally, there is no requirement for removing taxpayer information from installed systems in vehicles.



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The return of taxpayers' personal items found in seized assets was not always documented

Personal items that were not supposed to be taken in the seizure are sometimes found inside seized assets such as vehicles. The IRM prohibits the taxpayer from reentering seized property to recover personal items. Instead, the revenue officer and witnessing employee should include the items on the Form 668-E, *Release of Levy*, personally remove the items, and return them to the taxpayer after the taxpayer signs Form 668-E.¹⁰ However, IRS employees were not consistently using the Form 668-E to document personal items that were returned to taxpayers after the seizure of vehicles. *****1*****
*****1*****
*****1*****.

In addition, personal items were not always returned to the taxpayers when applicable. Specifically, six of the eight vehicle seizure cases were sold to third parties. All of the States in which the six vehicles were sold were States in which license plates are deemed to be issued to the vehicle owner and not to the vehicle. Therefore, the license plates should have been documented on the Form 668-E and returned to the taxpayer after the vehicles were sold. There was no evidence that the license plates were returned to the taxpayers in five of the six sold vehicles. *****1*****
*****1*****.

IRS management provided that Field Collection employees are trained on the proper use of the Form 668-E; however, neither revenue officers nor the PALSs consistently follow the IRM requirements to prepare the Form 668-E when returning personal items to the taxpayer following a seizure. To ensure that all personal items are properly accounted for, revenue officers and the PALSs should prepare the Form 668-E when personal items are returned from seized vehicles and require the form be signed by the taxpayer acknowledging receipt.

Procedures do not include instructions for removing taxpayer information from installed equipment in vehicles

The IRM does not specifically include any criterion that addresses the treatment of installed navigation and garage door opening systems that come equipped in some vehicles. The IRM does require that a Form 2433, *Notice of Seizure*, be prepared and it must include a description of the vehicle (make, type, model, year, odometer reading, vehicle identification number, *etc.*) and a list of optional equipment such as a radio, tape player, or air conditioner.¹¹ The IRM also provides guidance for seizures involving computer equipment, which requires the PALS to take the appropriate action to remove all of the information from the hard drive as close to the

¹⁰ IRM 5.10.3.7(8) (April 3, 2013).
¹¹ IRM 5.10.3.10(6) (August 4, 2014).



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scheduled sale date as possible. Prior to removing the data, the taxpayer must be given an opportunity to download the data from the hard drive.¹²

However, during our discussions with IRS employees involved in the seizure process, we determined that there was no guidance on what actions to take if seized vehicles are equipped with installed navigation or garage door opening systems. Additionally, except for one employee, everyone we spoke with had not considered what actions to take if they seized a vehicle with one of these systems. While we do not have any examples in our case reviews of this situation occurring, it is in the taxpayers' and Government's best interest that employees are prepared if seizures involve these types of systems. If these systems are not reset to the original factory settings, there is a risk that the third-party purchaser of the vehicle can gain access to the taxpayer's personal information or property. For example, the purchaser could use the vehicle navigational equipment to locate a taxpayer's residence and then use the garage door opener to gain access to the home.

The IRM should be updated and guidance provided to employees on actions to take when seized vehicles come equipped with navigation, garage door, or other similar installed systems to reset them to the original factory settings. This should be done to protect taxpayers' privacy and prevent potential access to their personal property.

Recommendations

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

Recommendation 3: Establish controls to ensure that employees properly use the Form 668-E to document returning all personal items from seized vehicles to the taxpayer.

Management's Response: IRS management agreed with this recommendation. The IRS will provide training on the proper use of the Form 668-E to document returning personal items from seized vehicles to the taxpayer after the seizure and inventory have been completed in their FY 2015 Continuing Professional Education for revenue officers.

Recommendation 4: Update the IRM to require license plates be documented on the Form 668-E in those States in which the license plates are deemed owned by the taxpayer and not attached to the vehicle when sold.

Management's Response: IRS management disagreed with this recommendation. The IRS indicated that the IRM currently requires the return of personal items, which include license plates, and documentation on Form 668-E, if a taxpayer seeks personal items. However, as stated in the corrective action to Recommendation 3, the IRS will include training on the proper use of the Form 668-E in its FY 2015 Continuing Professional Education for revenue officers.

¹² IRM 5.10.3.7.4 (July 3, 2009).



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Office of Audit Comment: During the audit, IRS management and staff told us that license plates should not be included on the Form 668-E because they are “on” the vehicle and not “in” the vehicle. However, in the response to this report, IRS management provided that the return of personal items, which include license plates, should be documented on Form 668-E. Therefore, we maintain that there is confusion about the process to return license plates from seized vehicles that are sold and that the IRM should be updated to provide specific guidance.

Recommendation 5: Update the IRM to require that employees take necessary actions to protect taxpayer Personally Identifiable Information when seized vehicles come equipped with navigation, garage door, or other similar installed systems to reset them to the original factory settings.

Management’s Response: IRS management agreed with this recommendation and will consider revising their procedures to allow the taxpayer to either: 1) re-enter the seized vehicle to reset navigation, garage door, and other similar installed systems to factory settings or 2) request that, at the taxpayer’s cost, an appropriately trained third party enter the seized vehicle to perform such work.

Property Appraisal and Liquidation Specialists Did Not Always Follow Procedures for Changing the Minimum Bid

Internal Revenue Code (I.R.C.) Section (§) 6335¹³ requires the establishment of a minimum bid before the sale of seized property. The IRM establishes valuation standards to facilitate a consistent, professional-quality work product among all IRS valuation personnel. These standards represent the minimum requirements for all appraisal work performed by the PALS and the documentation of appraisals in the case file history. The PALSs are required to prepare valuation reports that contain all information necessary to ensure a clear understanding of the appraisal analysis. Reports should be well written, communicate the results, and identify the information relied upon in the valuation process. The report should effectively communicate methods and reasoning and identify supporting documentation in a concise manner. This valuation is then used to establish the minimum bid for selling the seized property.¹⁴

The law provides the IRS the following three options when selling seized property:

- Sale to the highest bidder at or above the minimum price;
- Property deemed sold to the United States at minimum price (if the IRS has determined that purchase of the property would be in the best interest of the United States); or

¹³ I.R.C. § 6335 (e)(1)(A).

¹⁴ IRM 5.10.9 (June 19, 2014).



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- Release to the owner if the property is not sold pursuant to either of the prior two options.¹⁵

The law also allows an adjournment of the sale at the election of the IRS.¹⁶ An adjourned sale would end the auction of the seized property without selling it and the IRS would attempt to sell the property at a later time and/or date, not to exceed one month.¹⁷ A sale may be adjourned at any time after the sale has commenced, including after the preestablished minimum price has been reached, until the property is sold. The IRM requires that the announcement of adjournment be made in the presence of the prospective bidders and that an updated notice with the new sale information should be given to the taxpayer in the same manner as the original notice of sale.

During the sale adjournment, the PALS may reevaluate the minimum bid to more realistically reflect the forced sale value of the seized property, if circumstances warrant a change. Specifically, the PALS should consider lowering the fair market value and recalculating the minimum bid if new information obtained during the sale, *e.g.*, defects in the property, bidder consensus that the fair market value is overstated, indicates a lower value is appropriate. However, the reevaluation should not be made solely to facilitate a sale.

The provisions of RRA 98 pertaining to the sale of seized property were enacted to protect the rights of the taxpayer as described in the Senate Report on RRA 98¹⁸ and were meant to be interpreted as follows:

Present Law

Section 6335(e) requires that a minimum bid price be established for seized property offered for sale. To conserve the taxpayer's equity, the minimum bid price should normally be computed at 80 percent or more of the forced sale value of the property less encumbrances having priority over the Federal tax lien. If the group manager concurs, the minimum sales price may be set at less than 80 percent. The taxpayer is to receive notice of the minimum bid price within 10 days of the sale. The taxpayer has the opportunity to challenge the minimum bid price, which cannot be more than the tax liability plus the expenses of sale. Accordingly, if the minimum bid price is set at the tax liability plus the expenses of sale, the taxpayer's concurrence is not required. IRM 56(13) 5.1(4) Section 6335 does not contemplate a sale of the seized property at less than the minimum bid price. Rather, if no person offers the minimum bid price, the IRS may buy the property at the minimum bid price or the property may be released to

¹⁵ I.R.C. § 6335 (e)(1).

¹⁶ I.R.C. § 6335 (e)(2)(F).

¹⁷ IRM 5.10.5 (August 4, 2014).

¹⁸ The IRS Restructuring and Reform Act of 1998, S. Rep. No. 105-174 P.L. 105-206, § 3441.



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Management's Response: IRS management agreed with this recommendation. The IRS will issue a memorandum to the PALS group managers reinforcing their responsibility to ensure that the PALSs follow the IRM requirements for conducting a sale adjournment and recalculating the minimum bid. They will also provide PALS training regarding the requirements for conducting a sale adjournment and recalculating the minimum bid.

Seizure Sale Methods Can Be Improved

The I.R.C. requirement for posting the notice of sale has become outdated and, consequently, the IRS is no longer able to meet this requirement. Additionally, the IRS has not evaluated its current sales efforts or analyzed how bidders learned about sales to improve its marketing strategy for future sales.

The legal requirement to advertise and post the notice of sale is obsolete

I.R.C. § 6335 requires the IRS to as soon as practicable after the seizure of property:

- 1) 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.
- 2) Give notice of the sale in writing to the owner and publish the notice 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 the notice at the post office closest to the place of the seizure and at least two other public places.

However, the PALSs advised us that the post office no longer allows them to post the notice of sale. Therefore, if there is not a newspaper distributed within the county, the IRS is unable to comply with the I.R.C. requirement to post the notice at the nearest post office.

Additionally, the PALSs informed us that the IRS Auction website has been the main source for bidders to find out about upcoming IRS auctions. Rarely did bidders cite the legal newspaper advertisement as the source for finding out about the auction. When the PALSs post the legal advertisement in a newspaper, it is an expense that is assessed to the taxpayer that could be saved or applied to more effective advertising methods. The cost to post a sale to the IRS Auction website is minimal and can provide photos of the items being sold.

While the IRS cannot change the legal requirement to post a notice of sale, management should consider whether the IRM requirement is still relevant and coordinate with the Department of the Treasury's Office of Tax Policy to align the advertising procedures based on the current environment.



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Increasing the number of bidders may be possible

During our interviews with the PALSs, case reviews, and additional research, we identified several ways that the IRS should consider to potentially increase the number of bidders for selling seized assets. These include:

- Analyze the success of advertising methods. When bidders arrive at the auction site, they sign the registration form and the PALS provides them with a bidder card. The card and form include a place for the bidders to document how they learned about the sale. Some of the PALSs we talked to save this information for future reference to use if they conduct another sale in the same location. However, no one is currently tracking this information to determine what works best to attract bidders. The IRS should consider performing an analysis on what types of advertising are most effective in different areas using the information from the registration forms. This information may prove useful for future auctions and provide historical information for new PALS employees.
- Consider alternate times for sales. The PALS typically conducts auctions Monday through Friday during normal working hours. Some independent auction businesses conduct their auctions on weekends or in the evenings. This allows them to attract more bidders during the hours that bidders are not working. Additionally, the time of year when a seized asset is being auctioned may determine the number of bidders attending a sale based on the part of the country where the auction is taking place. For example, when we observed a real estate auction in Florida during the summer, there was only one bidder present. The PALSs informed us that during the fall and winter months, more bidders attend the sales because that is the time when residents from the northern States temporarily relocate. While we understand that seizing and selling taxpayer property is dictated by the circumstances in each case, identifying and selecting the best time to sell a seized asset would benefit the taxpayer and the Government by increasing the number of bidders attending the sale and potentially increasing the amount of revenue received from selling the asset.
- Consider the use of specialized contractors for selling certain seized assets. Contractors are rarely considered in the sale of seized assets unless it is a very unique or unusual item. However, considering the abundance of auto auction businesses across the country, using auto auctions could be an opportunity to increase the number of bidders attending vehicle sales. The IRS should explore the possibility of selling seized vehicles either in conjunction with or through auto auction businesses.
- Explore the use of online auction websites. An internal IRS draft report¹⁹ recommended researching the use of online bidding for the sale of seized assets (the final report removed this recommendation). While there may be legal and administrative

¹⁹ IRS Small Business/Self Employed, Field Operations, Reviews and Enforcement, Collection Policy Report, *Analysis of Seizure and Sale Sub-Processes* (May 2013).



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requirements that need to be addressed, online auction websites could be a way to increase the number of bidders by breaking down the barrier of bidders having to be physically present at the sale. For example, we determined that the Kansas Department of Revenue uses a contractor's online auction site to sell seized property in that State.

- **Promote the IRS Auction website.** We identified instances in which the Form 2434, *Notice of Public Auction Sale*, did not include a reference to the IRS Auction website. Including a direct link to the IRS Auction website on Form 2434 enables prospective bidders to easily examine the items being auctioned and increases the potential that bidders will return to the website in the future. Although the bottom of the Form 2434 includes a link to the IRS.gov website, there is not an IRS Auction website link on the IRS website. The IRS should consider adding the IRS Auction website link to the Form 2434 template. Also, the IRS should consider including an IRS Auction website link on the IRS.gov website to make it easier for prospective bidders to locate the IRS Auction website.

The IRS may be able to expand its use of specialized industry experts (such as automobile and/or online auctions) with an already established infrastructure to potentially increase the number of bidders and revenue for the sale of seized assets. The IRS should also consider additional sales and marketing opportunities that could potentially increase revenue and further reduce the taxpayer's liability to the Government.

Legislative Recommendation

Recommendation 7: The Director, Collection, Small Business/Self-Employed Division, should coordinate with the Department of the Treasury's Office of Tax Policy to propose legislative changes to the present legal requirements to advertise in a local newspaper and to post the notice of sale at post offices.

Management's Response: IRS management agreed with this recommendation. They have initiated a discussion with the IRS Office of Chief Counsel about a possible legislative change to the present statutory requirements concerning the advertisement of sales in local newspapers and post offices. The IRS Office of Chief Counsel has agreed to discuss the proposed legislative change with the Office of Tax Policy.



*Seizure Sale Procedures Were Not
Always Followed and Can Be Improved*

Recommendations

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

Recommendation 8: Pursue additional strategies to increase the number of bidders attending IRS auctions including evaluating the best methods to attract bidders based on the advertising used, the timing of the sale, and the use of contractors.

Management's Response: IRS management agreed with this recommendation and will evaluate identified, additional strategies for increasing the number of bidders at a sale.

Recommendation 9: Update the Form 2434 template to include a link to the IRS Auction website and add the IRS Auction website link on the IRS.gov website.

Management's Response: IRS management agreed with this recommendation and will revise the Form 2434 to include a website link for the auction website and add the auction website link to the IRS web page.



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Appendix I

Detailed Objective, Scope, and Methodology

Our overall objective was to analyze the IRS's seizure and sale program to determine whether the program can be improved to increase revenue and to further protect taxpayer rights. To accomplish this objective, we:

- I. Identified current seizure and sale criteria and guidelines, including any planned changes, and whether the IRS has evaluated the seizure and sale program.
 - A. Reviewed the Collection Activity Reports from FY 2010 through FY 2014 to identify trend information on the results of the seizure and sales between the Collection Area Offices.
 - B. Interviewed each of the three PALS Territory group managers, PALS employees, Field Collection group managers, and revenue officers to determine reasons for the disparity in seizure volumes.
- II. Determined whether the sale process maximizes benefit to both the taxpayers and the Government by expeditiously attaining the maximum purchase price.
 - A. Identified from the IRS Auction website the inventory of seizure sales and selected a judgmental¹ sample of various types of seized properties. We used judgmental sampling because the population was small and seized property on the IRS Auction website changes from day to day. We selected a judgmental representative sample from each of the three PALS territories (East, Central, and West) and ensured that different types of seized property were considered, *e.g.*, real property, business, auto, stocks.
 - B. Interviewed each of the three PALS Territory group managers, PALS employees, Field Collection group managers, and revenue officers to determine their roles, responsibilities, and best practices including whether:
 1. The legal requirement to advertise sales in a newspaper or post the notice of sale at a post office is relevant in today's current environment.
 2. They were monitoring the effectiveness of the types of advertising being used to determine how bidders were being informed about sales.
 3. A contractor was considered to conduct the sales.

¹ A judgmental sample is a nonprobability sample, the results of which cannot be projected to the population.



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- C. Obtained all copies of advertising used to notify bidders about the auction and determined whether the advertisement information was consistent.
 - D. Determined whether the sale was adjourned, the property was sold on its first listing/posting, or the property was sold after an adjournment and what PALS actions resulted in the most effective sale of the property.
 - E. Determined whether the calculations and documentation to support the estimates of Fair Market Value to establish the Minimum Bid were adequate.
 - F. Determined whether the PALS sale plan provided sufficient information to document how the sale activity was to proceed.
 - G. Visited selected locations² to observe the sale activity to determine if the PALS conducted the sale in a manner that followed IRM procedures and encouraged taxpayers to bid on the property.
- III. Determined whether controls for safeguarding property were effective to protect the seized taxpayer property.

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 that the following internal controls were relevant to our audit objective: the Small Business/Self-Employed Division policies, procedures, and practices for documenting and conducting the seizure and sale of taxpayers' property. We evaluated these controls by interviewing IRS management and Collection function employees, reviewing documentation, and reviewing the IRS website.

² San Jose, California; Plantation, Florida; Kansas City, Kansas; Shawnee, Kansas; New York, New York; and Bulverde, Texas.



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Appendix II

Major Contributors to This Report

Nancy A. Nakamura, Assistant Inspector General for Audit (Compliance and Enforcement Operations)
Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations)
Bryce Kisler, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations)
Carl Aley, Audit Director
Beverly Tamanaha, Audit Manager
Richard Viscusi, Acting Audit Manager
Michael Garcia, Lead Auditor
Javier Fernandez, Senior Auditor
Janis Zuika, Senior Auditor
Ali Vaezazizi, Auditor



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Appendix III

Report Distribution List

Assistant Secretary of the Treasury for Tax Policy
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, Collection, Small Business/Self-Employed Division SE:S:C
Director, Field Collection, Small Business/Self-Employed Division SE:S:FC
Director, Headquarters Collection, Small Business/Self-Employed Division SE:S:C:HQ
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



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Appendix IV

Glossary of Terms

Term	Definition
Adjournment	When circumstances require an IRS sale to be suspended until a later stated time and/or date.
Area Office	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.
Collection Activity Reports	Reports that provide Collection activity information from the beginning of the fiscal year through the end of the current reporting month.
Field Collection	The unit in the Area Offices consisting of revenue officers who handle personal contacts with taxpayers to collect delinquent accounts or secure unfiled returns.
Fiscal Year	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.
Installment Agreement	Arrangement in which a taxpayer agrees to pay his or her tax liability over time.
Integrated Collection System	Provides workload management, case assignment/tracking, inventory control, case analysis tools, and management information system capabilities to support the Small Business/Self-Employed Division's collection fieldwork.
Integrated Data Retrieval System	The IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.
Internal Revenue Manual	The primary, official source of instructions to staff relating to the organization, administration, and operation of the IRS.



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Term	Definition
Levy	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.
Minimum Bid	A price established for seized property offered for sale. The minimum bid price is determined by the PALS assigned to the sale with the primary purpose to avoid selling the property at substantially less than the forced sale value. The minimum bid price must be correctly determined to provide for the equitable preservation of the property value; however, the minimum bid is limited to the Government's lien interest in the property plus costs.
Offer in Compromise	A proposal by a taxpayer to settle an unpaid account(s) for less than the full amount of the balance due.
Property Appraisal and Liquidation Specialists	Employees who 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.
Revenue Officer	Employees in the Field who attempt to contact taxpayers and resolve collection matters that have not been resolved through notices sent by the IRS campuses or the Automated Collection System.
Seizure	The taking of a taxpayer's property to satisfy his or her outstanding tax liability.



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Appendix V

Management's Response to the Draft Report



COMMISSIONER
SMALL BUSINESS/SELF-EMPLOYED DIVISION

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

APR 16 2015

MEMORANDUM FOR MICHAEL E. MCKENNEY
DEPUTY INSPECTOR GENERAL FOR AUDIT

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

SUBJECT: Draft Audit Report – Seizure Sale Procedures Were Not Always
Followed and Can Be Improved (Audit # 201330016)

Thank you for the opportunity to review the subject draft report which analyzed the IRS's seizure and sale program to determine whether the program can be improved to increase revenue and to further protect taxpayer rights. Section 6331(a) of the Internal Revenue Code authorizes the IRS to seize property of taxpayers who have neglected or refused to pay any tax. Before we seize property, taxpayers receive a *Final Notice of Intent to Levy and Notice of Your Right to a Hearing*. If the taxpayer requests a hearing, the hearing will be with the IRS Office of Appeals. Property that is seized is subsequently sold and the proceeds applied to the taxpayer's tax debt. Property Appraisal and Liquidation Specialists (PALS) are authorized to sell the property to ensure that taxpayers' rights are protected when seized property is sold.

TIGTA reviewed the files for 44 seizure and sales and found that our employees properly inventoried, safeguarded, and professionally handled the seized assets in every case reviewed.

We have engaged a lean six sigma team to review and evaluate all aspects of our seizure and sale program and present proposals for improving the program. Our goal is to further clarify our seizure and sales procedures while continuing to protect taxpayers' rights. As outlined in the attachment, we will be providing additional training to our PALS on the proper use of the Form 668-E, *Release of Levy*, and conducting a sale adjournment and recalculating the minimum bid.

Attached is a detailed response with our corrective actions to your recommendations. If you have any questions, please contact me, or a member of your staff may contact Scott Prentky, Director, Collection, at (954) 423-7318.

Attachment



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Attachment

RECOMMENDATION 1:

The Director, Collection, Small Business/Self-Employed Division, should require the PALS to consistently prepare a detailed sale plan once custody of the seized property has been accepted and update the Internal Revenue Manual (IRM) to include the required details of the sale plan. This could include information such as asset protection; storage options; moving and towing costs; advertising strategy; where the notice of sale will be posted; a list of sale expenses; actions to take if the minimum bid is not reached (adjourn the sale, release the property to the taxpayer, or bid in for the Government); and whether a contractor should be considered.

CORRECTIVE ACTION:

We will provide additional guidance on creating a sale plan to the PALS. This guidance will address what the PALS may want to consider including in the sales plan depending on the complexity of the sale. We also will remind the PALS of the importance of preparing a sales plan appropriate for the complexity of the sale after the seizure has occurred.

IMPLEMENTATION DATE:

November 30, 2015

RESPONSIBLE OFFICIAL:

Director, Collection Policy, Small Business/Self-Employed Division

CORRECTIVE ACTION MONITORING PLAN:

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

RECOMMENDATION 2:

The Director, Collection, Small Business/Self-Employed Division, should update the IRM to clarify if indirect sale expenditures, such as the renting or leasing of equipment, can be charged to the taxpayer.

CORRECTIVE ACTION:

IRM 5.10.4.7(1) and Treasury Regulation 301.6341-1 already provide that the expenses allowed include the "actual expense incurred in connection with the sale" in addition to expenses for the "protection and preservation of the property." Internal controls also require PALS management review and approval of expenses applied to the taxpayer's account. The expenses referenced in the report are actual expenses incurred at the respective sales for the safety and convenience of bidders.

IMPLEMENTATION DATE:

N/A



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RESPONSIBLE OFFICIAL:

N/A

CORRECTIVE ACTION MONITORING PLAN:

N/A

RECOMMENDATION 3:

The Director, Collection, Small Business/Self-Employed Division, should establish controls to ensure that employees properly use the Form 668-E, *Release of Levy*, to document returning all personal items from seized vehicles to the taxpayer.

CORRECTIVE ACTION:

We will include training on the proper use of the Form 668-E, *Release of Levy*, to document returning personal items from seized vehicles to the taxpayer after the seizure and inventory have been completed in our FY2015 Continuing Professional Education (CPE) for revenue officers.

IMPLEMENTATION DATE:

November 30, 2015

RESPONSIBLE OFFICIAL:

Director, Collection Policy, Small Business/Self-Employed Division

CORRECTIVE ACTION MONITORING PLAN:

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

RECOMMENDATION 4:

The Director, Collection, Small Business/Self-Employed Division, should update the IRM to require license plates be documented on the Form 668-E in those states in which the license plates are deemed owned by the taxpayer and not attached to the vehicle when sold.

CORRECTIVE ACTION:

We do not agree that an update to the IRM is required. The IRM currently requires the return of personal items, which include license plates, and documentation on Form 668-E, if a taxpayer seeks personal items. However, as stated in our corrective action to Recommendation # 3, we will include training on the proper use of the Form 668-E, *Release of Levy*, in our FY2015 Continuing Professional Education (CPE) for revenue officers.



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IMPLEMENTATION DATE:

N/A

RESPONSIBLE OFFICIAL:

N/A

CORRECTIVE ACTION MONITORING PLAN:

N/A

RECOMMENDATION 5:

The Director, Collection, Small Business/Self-Employed Division, should update the IRM to require that employees take necessary actions to protect taxpayer personally identifiable information when seized vehicles come equipped with navigation, garage door, or other similar installed systems to reset them to the original factory settings.

CORRECTIVE ACTION:

We will consider revising our procedures to allow the taxpayer to either 1) reenter the seized vehicle to reset navigation, garage door and other similar installed systems to factory settings or 2) request that, at the taxpayer's cost, an appropriately trained third party enter the seized vehicle to perform such work.

IMPLEMENTATION DATE:

June 15, 2016

RESPONSIBLE OFFICIALS:

Director, Collection Policy, Small Business/Self-Employed Division
Director, Collection - Quality and Technical Support, Small Business/Self-Employed Division

CORRECTIVE ACTION MONITORING PLAN:

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

RECOMMENDATION 6:

The Director, Collection, Small Business/Self-Employed Division, should ensure that the PALS follow the IRM requirements for conducting a sale adjournment and recalculating the minimum bid. During a sale adjournment, any adjustments to the fair market value and minimum bid should be supported by the facts of the situation and properly documented.



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CORRECTIVE ACTION:

We will issue a memorandum to our PALS group managers reinforcing their responsibility to ensure that the PALS follow the IRM requirements for conducting a sale adjournment and recalculating the minimum bid. We also will provide PALS training regarding the requirements for conducting a sale adjournment and recalculating the minimum bid.

IMPLEMENTATION DATE:

November 30, 2015

RESPONSIBLE OFFICIAL:

Director, Collection- Quality and Technical Support, Small Business/Self-Employed Division

CORRECTIVE ACTION MONITORING PLAN:

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

RECOMMENDATION 7:

The Director, Collection, Small Business/Self-Employed Division, should coordinate with the Department of the Treasury's Office of Tax Policy to propose legislative changes to the present legal requirements to advertise in a local newspaper and to post the notice of sale at post offices.

CORRECTIVE ACTION:

We have initiated a discussion with the IRS Office of Chief Counsel about a possible legislative change to the present statutory requirements concerning the advertisement of sales in local newspapers and post offices. The IRS Office of Chief Counsel has agreed to discuss the proposed legislative change with the Office of Tax Policy.

IMPLEMENTATION DATE:

N/A

RESPONSIBLE OFFICIAL:

N/A

CORRECTIVE ACTION MONITORING PLAN:

N/A



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RECOMMENDATION 8:

The Director, Collection, Small Business/Self-Employed Division, should pursue additional strategies to increase the number of bidders attending IRS auctions including evaluating the best methods to attract bidders based on the advertising used, the timing of the sale, and the use of contractors.

CORRECTIVE ACTION:

We will evaluate identified, additional strategies for increasing the number of bidders at a sale.

IMPLEMENTATION DATE:

November 30, 2015

RESPONSIBLE OFFICIAL:

Director, Collection - Quality and Technical Support, Small Business/Self-Employed Division

CORRECTIVE ACTION MONITORING PLAN:

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

RECOMMENDATION 9:

The Director, Collection, Small Business/Self-Employed Division, should update the Form 2434, Notice of Public Auction Sale, template to include a link to the IRS Auction website and add the IRS Auction website link on the IRS.gov website.

CORRECTIVE ACTION:

We will revise Form 2434 to include a URL for the auction website and we will add a link to the auction website to the IRS webpage.

IMPLEMENTATION DATE:

November 30, 2015

RESPONSIBLE OFFICIAL:

Director, Collection Policy, Small Business/Self-Employed Division

CORRECTIVE ACTION MONITORING PLAN:

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