



*Fiscal Year 2015 Review of Compliance  
With Legal Guidelines When Conducting  
Seizures of Taxpayers' Property*

**June 10, 2015**

**Reference Number: 2015-30-048**

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

**Redaction Legend:**

1 = Tax Return/Return Information

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Phone Number / 202-622-6500

E-mail Address / [TIGTACommunications@tigta.treas.gov](mailto:TIGTACommunications@tigta.treas.gov)

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



## HIGHLIGHTS

### FISCAL YEAR 2015 REVIEW OF COMPLIANCE WITH LEGAL GUIDELINES WHEN CONDUCTING SEIZURES OF TAXPAYERS' PROPERTY

## Highlights

Final Report issued on June 10, 2015

Highlights of Reference Number: 2015-30-048 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

I.R.C. § 7803(d)(1)(A)(iv) requires TIGTA to annually evaluate the IRS's compliance with 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 425 seizures conducted from July 1, 2013, through June 30, 2014, to determine whether the IRS complied with legal and internal guidelines when conducting each seizure.

TIGTA identified 28 instances in which the IRS did not comply with a particular requirement in the I.R.C., the IRS Restructuring and Reform Act of 1998, or the Internal Revenue Manual. For example, the sale of seized property was not always properly advertised, and the amount of the liability for which seizures were made was

not always correct on the notice of seizure provided to the taxpayers.

### WHAT TIGTA RECOMMENDED

Management took corrective actions for some of the issues identified after they were brought to their attention. However, TIGTA recommended that the Director, Collection, Small Business/Self-Employed Division: 1) revise Internal Revenue Manual guidelines regarding advertising for the sale of seized property and 2) ensure that any revisions to the fair market values affecting minimum bids made during the seizure sale process include the revenue officer's group manager's documented concurrence in the Integrated Collection System history.

In their response to the report, IRS officials agreed with the recommendations and stated that they plan to: 1) revise the guidelines for advertising the sale of seized property and 2) issue a memorandum to remind employees of the requirements to be followed when revising fair market values affecting minimum bids.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

June 10, 2015

**MEMORANDUM FOR** COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED  
DIVISION

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

**SUBJECT:** Final Audit Report – Fiscal Year 2015 Review of Compliance With  
Legal Guidelines When Conducting Seizures of Taxpayers' Property  
(Audit # 201530002)

This report presents the results of our review to determine whether seizures conducted by the Internal Revenue Service (IRS) complied with legal provisions set forth in the 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. This audit is included in our Fiscal Year 2015 Annual Audit Plan and addresses the major management challenge of Taxpayer Protection and Rights.

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

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



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## *Abbreviations*

FY	Fiscal Year
ICS	Integrated Collection System
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
PALS	Property Appraisal and Liquidation Specialist
RRA 98	IRS Restructuring and Reform Act of 1998
TIGTA	Treasury Inspector General for Tax Administration



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## *Background*

The collection of unpaid tax by the Internal Revenue Service (IRS) generally begins with collection notices, after which the case will generally be assigned either to the IRS's Automated Collection System or to a revenue officer.<sup>1</sup> The IRS considers the taxpayer's ability to pay the tax and discusses alternative payment options, such as an installment agreement or an offer in compromise. If these actions have been taken and the taxpayer is able to pay some or all of the tax but has not taken steps to address the liability and if the taxpayer had the opportunity to exercise available appeal rights,<sup>2</sup> the IRS has the authority to levy the taxpayer's funds or seize 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 (RRA 98)<sup>3</sup> 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 and govern many aspects of the seizure process, from notification of the taxpayer through sale or redemption of the property.<sup>4</sup>

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) 1999.<sup>5</sup>

Following passage of the RRA 98, IRS seizures decreased from 10,090 in FY 1997 to 74 in FY 2000. The number of seizures has increased since FY 2000; however, total seizures in FY 2013 were approximately 5 percent of those reported for FY 1997. Figure 1 illustrates the number of seizures made over the past five fiscal years.

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<sup>1</sup> See Appendix VII for a glossary of terms.

<sup>2</sup> Taxpayers have a statutory right to a Collection Due Process hearing on the first issuance of a Notice of Intent to Levy on a delinquent account, pursuant to Internal Revenue Code (I.R.C.) Section (§) 6330 as well as upon the first Notice of Filing of a Tax Lien, pursuant to I.R.C. § 6320. Taxpayers additionally have certain administrative rights such as an appeal through the IRS's Collection Appeal Program. See Internal Revenue Manual 5.19.8.4.16.

<sup>3</sup> 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.).

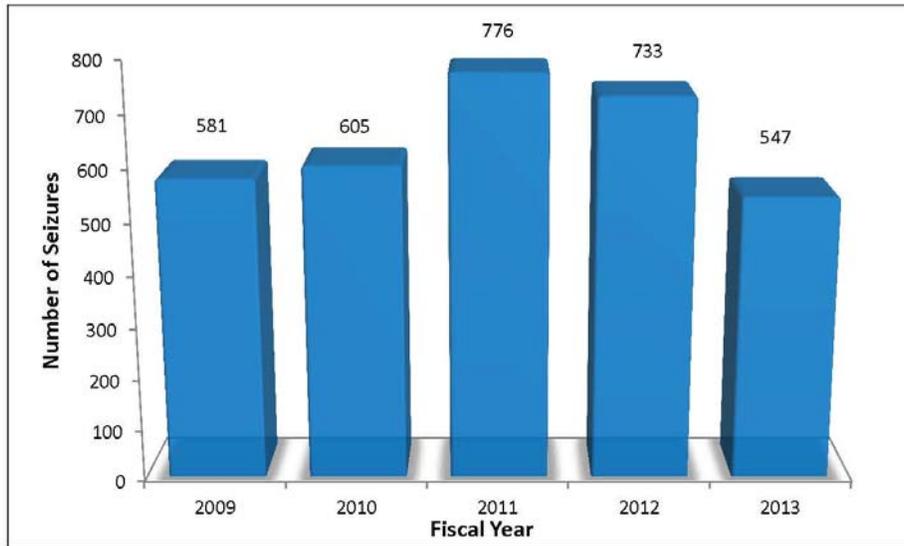
<sup>4</sup> See Appendix V for a synopsis of selected legal provisions for conducting seizures.

<sup>5</sup> See Appendix VI for a list of the past five TIGTA reports.



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**Figure 1: IRS Seizures by Fiscal Year**



*Source: IRS Data Books.*

This review was performed during the period September 2014 through February 2015 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.



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Results of Review

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

We reviewed a random sample of 50 seizures from the 425 seizures<sup>6</sup> that the IRS conducted from July 1, 2013, through June 30, 2014, with potentially 58 legal and internal guidelines related to each seizure.<sup>7</sup> We found that the IRS generally followed the guidelines; however, we identified 24 instances, involving 21 seizures, in which the IRS did not comply with a particular I.R.C. section and the related Internal Revenue Manual (IRM) requirement or the RRA 98 requirement.<sup>8</sup> The violations were generally due to Collection employees not correctly completing all required actions and management not identifying the missing actions in their reviews. Failure to adhere to legal and internal guidelines could result in the abuse of taxpayers' rights or inequitable treatment of taxpayers. Specifically, we found:

- Ten instances in which the sale of the seized property was not properly advertised. (I.R.C. § 6335(b)).
- Seven 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)).
- \*\*\*\*\*1\*\*\*\*\*.
- \*\*\*\*\*1\*\*\*\*\*.
- \*\*\*\*\*1\*\*\*\*\*.
- \*\*\*\*\*1\*\*\*\*\*.

<sup>6</sup> The number of seizures is based on IRS data, which may include duplicate taxpayers.  
<sup>7</sup> 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.  
<sup>8</sup> Three seizures had two occurrences in which the IRS did not comply with a particular I.R.C. section and the related IRM requirement or RRA 98 requirement.



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- \*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*.
- \*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*.

**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 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.

The 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 property.<sup>9</sup> To satisfy this requirement, the IRM also states that the property description and time, place, manner, and conditions of sale in the newspaper advertisement must match the notice (Form 2434, *Notice of Public Auction Sale*<sup>10</sup> or Form 2434-A, *Notice of Sealed Bid Sale*<sup>11</sup>) provided to the taxpayer.<sup>12</sup>

We identified 10 seizures for which the notice of sale and newspaper advertisement did not contain the same information. Specifically, newspaper advertisements for \*\*\*1\*\*\* seizures did not correctly state the payment terms from the notice of sale, and newspaper advertisements for \*\*\*1\*\*\* seizures did not contain minimum bids that were present on the notice of sale. In all of the \*\*\*1\*\*\* instances with differences in payment terms, similar incorrect wording was used. It appears that employees prepared the notice to the newspaper publisher using IRM Exhibit 5.10.4-6, *Template to Provide Publisher to Meet Statutory Requirements of Advertising Reference: 5.10.4.14(3)*. This template includes wording that should be updated to match the particulars on the notice of sale provided to the taxpayer; however, it was not correctly updated in these instances. Updating the IRM template to clarify what information needs to be changed by employees could reduce these kinds of errors. TIGTA has reported violations of I.R.C. § 6335(b) for the past five consecutive fiscal years.

<sup>9</sup> IRM 5.10.4.12 (4) (Aug. 4, 2014).

<sup>10</sup> Form 2434 contains a description of the property to be sold; the date, time, and place of sale; and payment terms.

<sup>11</sup> Form 2434-A contains a description of the property to be sold, the date and time bids will open, the place of sale, methods of submitting bids, and payment terms.

<sup>12</sup> IRM 5.10.4.14 (1) (Aug. 4, 2014).



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**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.

The IRM provides guidance on completing Form 2433, *Notice of Seizure*.<sup>13</sup> It requires that the liability shown on Form 2433 agree with the taxpayer's total amount due for the tax modules, which includes all accruals, and matches the total amount due on Form 668-B, *Levy*.<sup>14</sup> Any difference in the total amount due on the forms should be documented in the Integrated Collection System (ICS) history.<sup>15</sup>

We identified seven seizures for which the Forms 2433 provided to the taxpayers did not agree with the total amount due on Forms 668-B and there was no documentation of the differences in the ICS histories. Therefore, the taxpayers were provided with incorrect liabilities for which the seizures were made. The discrepancies between the two forms in these seizures occurred because they were printed on different days. In these seizures, the Forms 2433 were initially printed using the total amount due from the original Forms 668-B. At a later date, final Forms 668-B were printed that reflected updated accruals of penalty and interest and no longer matched the amounts on the Forms 2433. Therefore, unless the revenue officer prints an updated Form 2433 on the same date as the final Form 668-B, the taxpayer may receive forms with different total amounts due. TIGTA has reported similar concerns about the IRS's compliance with this I.R.C. section each year for the past seven years.

**Management Action:** In January 2015, the IRS revised the ICS to auto-populate the Form 2433 balance due with the total amount from the previously prepared Form 668-B.

\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*

I.R.C. § 6331(d)(1) requires that a levy may be made upon the salary or wages or other property of any person with respect to any unpaid tax only after the Secretary has notified such person in writing of his intention to make such levy. I.R.C. § 6331(d)(2) states that the notice shall be given in person, left at the dwelling or usual place of business of such person, or sent by certified or registered mail to such person's last known address no less than 30 days before the day of the levy.

<sup>13</sup> 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.

<sup>14</sup> Form 668-B, *Levy*, provides the taxpayer with the type of tax, tax period, unpaid balance of assessment, statutory additions, and total tax balance for which he or she is to be levied.

<sup>15</sup> IRM 5.10.3.10(1) (Aug. 4, 2014).



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The IRM provides guidance on issuing the Letter 1058, *Notice of Intent to Levy and Notice of Your Right to a Hearing*.<sup>16</sup> It states that if the Letter 1058 was sent more than 180 days prior to the seizure date, there is no legal prohibition against seizure, but in most cases a new warning of enforcement must be provided to the taxpayer before enforcement action is taken.<sup>17</sup> \*\*1\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*. The errors do not appear to be systemic in nature; therefore, we are not making any recommendations for this issue.

\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*

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 with:

- The record of sale (other than the names of the purchasers).
- The amount from such sale applied to the taxpayer's liability.
- The remaining balance of such liability.

The IRM lists three documents to be retained in the permanent record and to be provided to the taxpayer.<sup>18</sup> The documents are: Record 21, *Record of Seizure and Sale*;<sup>19</sup> Form 2434-B, *Notice of Encumbrances Against or Interests in Property Offered for Sale*;<sup>20</sup> and Letter 3074, *Letter Providing Permanent Record and Final Balance to Taxpayer*.<sup>21</sup> \*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*. The \*\*1\*\* does not appear to be systemic in nature; therefore, we are not making any recommendations for this issue.

**Management Action:** \*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*

<sup>16</sup> Letter 1058 is the final notice given to taxpayers, which warns them of impending levy action. It contains the amount of tax owed and how to make a payment and warns that the IRS may file a Notice of Federal Tax Lien to protect the Government's interest.

<sup>17</sup> IRM 5.10.1.7.1(1) (Aug. 4, 2014).

<sup>18</sup> IRM 5.10.6.12 (2) (Apr. 19, 2013).

<sup>19</sup> 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.

<sup>20</sup> Form 2434-B provides a list of all encumbrances against or interests in the seized property.

<sup>21</sup> Letter 3074 provides the taxpayer with information on how proceeds of the seizure were applied to the tax liability and also provides the taxpayer with the remaining balance due.



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\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*

I.R.C. § 6334(e) states that a principal residence shall not be exempt from levy if a judge or magistrate of a district court of the United States approves in writing the levy of such residence. This includes any real property used as a principal residence by any of the following individuals: the taxpayer, the taxpayer's spouse or former spouse, or the taxpayer's minor children.<sup>22</sup> \*\*1\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*. The \*\*1\*\* does not appear to be systemic in nature, and the IRS took corrective action; therefore, we are not making any recommendations at this time.

\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*

RRA 98 § 3421(a)(1) requires the IRS to implement procedures that require a supervisor of an employee to, when appropriate, review any determinations to file a notice of lien or levy or levy to seize any property or right to property. RRA 98 § 3421(a)(2) requires that appropriate disciplinary action be taken against the employee or supervisor if the procedures under paragraph (1) are not followed. In implementing RRA 98 § 3421(a)(1) with respect to personal residences, IRS procedures require that all personal residences, including property owned by the taxpayer and used by any other person as a principal residence, be approved by the Area Director unless collection of the tax is in jeopardy.<sup>23</sup> \*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*.

**Management Action:** \*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*1\*\*\*\*\*.

\*\*\*\*\*1\*\*\*\*\*

I.R.C. § 6330(a) requires that no levy may be made on any property or right to property of any person unless the Secretary has notified such person in writing of his or her right to a hearing. I.R.C. § 6330(a)(3)(A) states that the notice required will include in simple and nontechnical terms the amount of unpaid tax. The IRM includes that notice must have been provided to the taxpayer at least 30 days before the seizure for each tax period and each assessment that will be identified on the Form 668-B.<sup>24</sup> \*\*\*\*\*1\*\*\*\*\*

<sup>22</sup> Treas. Reg. § 301.6334-1; IRM 5.10.2.19(1) (Aug. 4, 2014).

<sup>23</sup> IRM 5.10.2.2(1) (Aug. 4, 2014).

<sup>24</sup> IRM 5.10.1.7(1) (Aug. 4, 2014).



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\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*. The \*\*\*1\*\*\* does not appear to be systemic in nature; therefore, we are not making any recommendations for this issue.

\*\*\*\*\*1\*\*\*\*\*

I.R.C. § 6341 states that the IRS will determine the expenses to be allowed in all cases of levy and sale. The IRM requires that if the sale was not completed but proceeds were received (for release or redemption) and there were unpaid expenses, the proceeds must be offset by the expenses on the same Form 2436R, *Seized Property Release/Redemption Report*.<sup>25</sup> The IRM also states that it is essential that all expenses of the seizure and sale be charged against the taxpayer's account so that the expenses are satisfied from the proceeds of the seizure or sale.<sup>26</sup>

\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*1\*\*\* The \*\*1\*\* does not appear to be systemic in nature, and the IRS took corrective action; therefore, we are not making any recommendations for this issue.

**Management Action:** \*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*.

***Recommendation***

***Recommendation 1:*** The Director, Collection, Small Business/Self-Employed Division, should revise IRM Exhibit 5.10.4-6 (newspaper advertisement notification template) to clarify that the seizure details need to be changed to match the details on the Form 2434 or Form 2434-A that was issued to the taxpayer.

**Management's Response:** Management agreed with this recommendation and will revise IRM Exhibit 5.10.4-6 to ensure that the template details in the exhibit match the details on Form 2434 or Form 2434-A.

<sup>25</sup> Form 2436R is the report given to the taxpayer that shows the application of seizure proceeds against tax liabilities. The form shows specific tax modules and the related expenses of seizure and the payments applied.

<sup>26</sup> IRM 5.10.6.2.1(1) (Apr. 19, 2013).







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The IRM also details that the employee should verify the balance due to ensure the proper posting of release/redemption payments.<sup>33</sup> \*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*. The \*\*1\*\* does not appear to be systemic in nature, and the IRS took corrective action; therefore, we are not making any recommendations for this issue.

**Management Action:** \*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*.

### ***Recommendation***

**Recommendation 2:** The Director, Collection, Small Business/Self-Employed Division, should ensure that any revisions to the fair market values affecting minimum bids made during the seizure sale process include the revenue officer's group manager's documented concurrence in the ICS history.

**Management's Response:** IRS management agreed with this recommendation. Management will issue a memorandum to PALS and Field Collection group managers reinforcing the current requirements that PALS obtain the revenue officer's group manager's concurrence with revised fair market values and that the revenue officer's group manager document his or her concurrence with the revised fair market values.

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<sup>33</sup> IRM 5.10.4.6(5) (June 28, 2013).



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## **Appendix I**

### *Detailed Objective, Scope, and Methodology*

The overall objective of this review was to determine whether seizures<sup>1</sup> 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. 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 425 seizures conducted by the IRS from July 1, 2013, through June 30, 2014. 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 425 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. We evaluated these controls by reviewing appropriate internal procedures and guidelines.

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<sup>1</sup> See Appendix VII for a glossary of terms.



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**Appendix II**

*Major Contributors to This Report*

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 L. Aley, Director  
Beverly K. Tamanaha, Audit Manager  
Brian G. Foltz, Lead Auditor  
Michael J. Della Ripa, Senior Auditor  
Michael Garcia, Senior Auditor  
Louis Zullo, Senior Auditor



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**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, Collection Policy, Small Business/Self-Employed Division SE:S:C:CP  
Director, Field Collection, Small Business/Self-Employed Division SE:S:FC  
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

Outcome Measures

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

**Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; 21 taxpayers for whom the IRS did not comply with legal provisions when conducting seizures (see page 3).

**Methodology Used to Measure the Reported Benefit:**

We selected and reviewed a random sample of 50 of the 425 seizures conducted by the IRS from July 1, 2013, through June 30, 2014. We identified 21 seizures for which the IRS did not comply with a particular I.R.C. section and the related IRM requirement or the RRA 98.<sup>1</sup> One seizure also had violations under the second report finding, so it was also included in that outcome measure. Failure to adhere to legal and internal guidelines resulted in the abuse of taxpayers' rights.

**Type and Value of Outcome Measure:**

- Taxpayer Burden – \*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\* (see page 3).

**Methodology Used to Measure the Reported Benefit:**

We selected and reviewed a random sample of 50 of the 425 seizures conducted by the IRS from July 1, 2013, through June 30, 2014. \*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*  
\*\*\*\*\*1\*\*\*\*\*. This \*\*1\*\* was also affected under the Taxpayer Rights and Entitlements outcome measure. Failure to adhere internal guidelines resulted in additional taxpayer burden.

<sup>1</sup> 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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**Type and Value of Outcome Measure:**

- Taxpayer Rights and Entitlements – Potential; three taxpayers for whom the IRS did not comply with internal procedures when conducting seizures (see page 9).

**Methodology Used to Measure the Reported Benefit:**

We selected and reviewed a random sample of 50 of the 425 seizures conducted by the IRS from July 1, 2013, through June 30, 2014. We identified three seizures for which the IRS did not follow an IRM requirement for the seizure of property. One seizure also had violations under the first report finding, so it was also included in the previous outcome measure. Failure to adhere to internal guidelines resulted in the abuse of taxpayers' rights.



## **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 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 first levy. 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. 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 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 \$8,790 for the period July 1 through December 31, 2013, and \$8,940 for the period January 1 through June 30, 2014, for fuel, provisions, furniture, and personal effects; and \$4,400 for the period July 1 through December 31, 2013, and \$4,470 for the period January 1 through June 30, 2014, 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



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exempt except with written approval of the Area Office 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 previous listed information except for 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.

**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



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United States and either the taxpayer or the National Taxpayer Advocate 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)<sup>1</sup> § 3421** requires the IRS to employ a supervisory review of seizures before action is taken.

**Public Law Number 105-206 (IRS Restructuring and Reform Act of 1998) § 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 from participating in the sales of seized assets.

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<sup>1</sup> 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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**Appendix VI**

*Prior Reports on Compliance  
With Seizure Procedures*

TIGTA, Ref. No. 2014-30-053, *Fiscal Year 2014 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property* (Aug. 2014).

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

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

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. 2010-30-049, *Fiscal Year 2010 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property* (May 2010).



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**Appendix VII**

*Glossary of Terms*

<b>Term</b>	<b>Definition</b>
<b>Area Office</b>	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.
<b>Fiscal Year</b>	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.
<b>Installment Agreement</b>	The IRS allows taxpayers who are unable to pay their tax debt immediately to make monthly payments through an installment agreement.
<b>Integrated Collection System</b>	An information management system designed to improve revenue collections by providing revenue officers access to the most current taxpayer information, while in the field, using laptop computers for quicker case resolution and improved customer service.
<b>Integrated Data Retrieval System</b>	IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.
<b>Internal Revenue Service Data Book</b>	Provides information on activities conducted by the IRS such as taxes collected, enforcement, taxpayer assistance, budget, workforce, and other selected activities.
<b>Levy</b>	A method used by the IRS to collect outstanding taxes from sources such as bank accounts and wages or a legal seizure of property to satisfy a tax debt.
<b>Offer in Compromise</b>	An agreement between a taxpayer and the Government that settles a tax liability for payment of less than the full amount owed.



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<b>Term</b>	<b>Definition</b>
<b>Revenue Officer</b>	Employees in the Field Collection function who attempt to contact taxpayers and resolve collection matters that have not been resolved through notices sent by the IRS campuses (formerly known as service centers) or the Automated Collection System.
<b>Seizure</b>	The taking of a taxpayer's property to satisfy his or her outstanding tax liability.
<b>Tax Period</b>	Refers to each tax return filed by the taxpayer for a specific period (year or quarter) during a calendar year for each type of tax.
<b>Taxpayer Advocate Service</b>	An independent organization within the IRS that helps taxpayers resolve problems with the IRS and recommends changes to prevent problems.



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**Appendix VIII**

*Management's Response to the Draft Report*



COMMISSIONER  
SMALL BUSINESS/SELF-EMPLOYED DIVISION

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

MAY 14 2015

MEMORANDUM FOR MICHAEL E. MCKENNEY  
DEPUTY INSPECTOR GENERAL FOR AUDIT

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

SUBJECT: Draft Audit Report – Fiscal Year 2015 Review of  
Compliance With Legal Guidelines When  
Conducting Seizures of Taxpayers' Property  
(Audit# 201530002)

Thank you for the opportunity to review the subject draft report which evaluated whether seizures conducted by the IRS complied with the seizure provisions of the Internal Revenue Code and the IRS's internal procedures. 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, we must notify the taxpayer of his or her right to a hearing. If the taxpayer requests a hearing, the hearing is held with the IRS Office of Appeals. Property that is seized is subsequently sold and the proceeds applied to the taxpayer's tax debt.

TIGTA reviewed a random sample of 50 of the 425 seizures conducted from July 1, 2013, through June 30, 2014, to determine whether IRS employees complied with up to 58 legal and internal procedures related to each seizure. You found that our employees almost always complied with the required procedures; 28 procedures were not followed out of the more than 2000 procedures reviewed.

We are always seeking ways to continue to improve our seizure and sale program. We have begun work on several recommendations that TIGTA proposed in another recent audit of the seizure and sale program. *Seizure Sale Procedures Were Not Always Followed and Can Be Improved* (Audit #201330016). Additionally, we have engaged a Lean Six Sigma team to review and evaluate all aspects of our seizure and sale program in an effort to identify efficiencies and process improvements. Our overriding goal is to further clarify our seizure and sales procedures while continuing to protect taxpayers' rights.

Almost half of the issues you identified related to nonmaterial differences in the text in notices of sale and legal advertisements. These nonmaterial differences do not constitute a violation of section 6335 of the Internal Revenue Code, nor do they result in an abuse of taxpayers' rights.



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MAY 14 2015

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 revise Internal Revenue Manual (IRM) Exhibit 5.10.4-6 (newspaper advertisement notification template) to clarify that the seizure details need to be changed to match the details on the Form 2434 or Form 2434-A which was issued to the taxpayer.

**CORRECTIVE ACTION:**

We will revise IRM Exhibit 5.10.4-6 to ensure that the template details in the exhibit match the details on Form 2434 or Form 2434-A.

**IMPLEMENTATION DATE:**

July 15, 2016

**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 ensure that any revisions to the fair market values impacting minimum bids made during the seizure sale process include the revenue officer group manager's documented concurrence in the Integrated Collection System history.

**CORRECTIVE ACTION:**

We will issue a memorandum to Property Appraisal and Liquidation Specialist (PALS) and Field Collection group managers reinforcing the current requirements that PALS obtain the revenue officer group manager's concurrence with revised fair market values and the revenue officer group manager document their concurrence with the revised fair market values.

**IMPLEMENTATION DATE:**

December 15, 2015

**RESPONSIBLE OFFICIAL(S):**

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



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**CORRECTIVE ACTION MONITORING PLAN:**

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