



*Fiscal Year 2016 Statutory Review
of Compliance With Notice of
Federal Tax Lien Due Process Procedures*

July 7, 2016

Reference Number: 2016-30-047

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HIGHLIGHTS

FISCAL YEAR 2016 STATUTORY REVIEW OF COMPLIANCE WITH NOTICE OF FEDERAL TAX LIEN DUE PROCESS PROCEDURES

Highlights

Final Report issued on July 7, 2016

Highlights of Reference Number: 2016-30-047 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

IMPACT ON TAXPAYERS

After filing a Form 668(Y)(c), *Notice of Federal Tax Lien* (NFTL), the IRS must notify the affected taxpayers in writing, at their last known address, within five business days of the NFTL filings. Taxpayers' rights to timely appeal the NFTL filings may be jeopardized if the IRS does not comply with this statutory requirement.

WHY TIGTA DID THE AUDIT

TIGTA is required by law to determine annually whether lien notices issued by the IRS comply with the legal requirements set forth in Internal Revenue Code Section 6320(a).

WHAT TIGTA FOUND

TIGTA reviewed a statistically valid sample of 133 NFTLs filed for the 12-month period beginning July 1, 2014, and ending June 30, 2015, and determined that the IRS timely and correctly mailed the copy of NFTL filing and appeal rights to the taxpayers' last known address, as required by Internal Revenue Code Section 6320(a).

However, tests of a judgmental sample of 162 undelivered lien notices identified nine cases for which lien notices were not timely sent to the taxpayers' last known addresses because the lien notices were sent to the taxpayers' old addresses even though IRS systems reflected their new addresses. Among the nine, seven sampled lien notices were not sent to the secondary taxpayers' last known addresses because employees did not identify separate addresses for taxpayers' spouses. Both notices were instead sent to the primary

taxpayers' addresses. Although the IRS reissued lien notices for three of the cases upon receipt of the undelivered lien notices and subsequently reissued lien notices for the remaining six cases, all nine cases involve potential legal violations because the IRS did not meet its statutory requirement to timely send lien notices to the taxpayer's last known address.

IRS regulations require that taxpayer representatives be provided copies of all correspondence issued to the taxpayer. However, for six of the 37 sample cases for which the taxpayer had an authorized representative, the IRS did not notify the taxpayers' representatives of the NFTL filings. TIGTA estimated that 22,866 taxpayers may have been adversely affected.

In addition, for 17 of 162 judgmentally sampled undeliverable lien notices, employees did not update the mail status of the lien notice with the appropriate transaction code and action code combination.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Director, Collection, Small Business/Self-Employed Division: 1) determine if programming changes are viable for the systemic upload and use of the secondary taxpayer's last known address for mailing lien notices for NFTLs with joint liabilities, and require employees requesting an NFTL involving joint liability to research for the last known address of the secondary spouse; 2) make the procedures pertaining to courtesy copies of lien notices applicable to Automated Collection System employees; and 3) remind employees to update the mail status of the lien notice with the appropriate transaction code and action code combination.

In response to the report, IRS officials agreed with all three recommendations.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

July 7, 2016

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

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2016 Statutory Review of Compliance
With Notice of Federal Tax Lien Due Process Procedures
(Audit # 201630001)

This report presents the results of our review to determine whether liens issued by the Internal Revenue Service (IRS) comply with legal guidelines set forth in Internal Revenue Code Section 6320, Treasury Regulations, and IRS procedures. The Treasury Inspector General for Tax Administration is required by law to determine annually whether lien notices issued by the IRS comply with the legal requirements in Internal Revenue Code Section 6320. This audit is included in our Fiscal Year 2016 Annual Audit Plan and addresses the major management challenge area of Taxpayer Protection and Rights.

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

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

ACS	Automated Collection System
ALS	Automated Lien System
CAF	Centralized Authorization File
CDP	Collection Due Process
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
NFTL	Notice of Federal Tax Lien
TIGTA	Treasury Inspector General for Tax Administration



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Background

The Internal Revenue Service (IRS) attempts to collect Federal taxes due from taxpayers by sending letters, making telephone calls, and meeting face-to-face with taxpayers. As a matter of law, a lien automatically arises upon the occurrence of a tax delinquency and encumbers the property of the delinquent taxpayer without the IRS having to take any action; however, the automatic lien is not valid with respect to certain third parties such as secured creditors.¹ To perfect the Government's claim, the IRS has the authority to file a notice of the lien in the appropriate State and local offices of record.² The IRS files a Form 668(Y)(c), *Notice of Federal Tax Lien* (NFTL), in appropriate local government offices to notify interested parties that a lien exists.³

The Internal Revenue Code (I.R.C.) has long required the IRS to notify taxpayers, in writing, of the filing of an NFTL; however, the IRS Restructuring and Reform Act of 1998⁴ expanded upon this notice requirement, creating I.R.C. Section (§) 6320 to give taxpayers additional rights.⁵ When the first NFTL is filed for a tax period, the notice must be issued within five business days of the filing of the NFTL and inform taxpayers of the right to elect a collection due process hearing (CDP hearing) wherein the taxpayer can raise any relevant issue, including spousal defenses, the appropriateness of the collection actions, and collection alternatives. The lien notice is used for this purpose and advises taxpayers that they have 30 calendar days, after that five-day period, to request a CDP hearing with the IRS's Office of Appeals.⁶ The lien notice indicates the date on which this 30-day period expires. By policy, the IRS generally suspends levy action for the tax periods on the NFTL from when the taxpayer requests the CDP hearing until the conclusion of the CDP hearing, including the period covering any request for judicial review.

The IRS is required to notify taxpayers of their CDP rights when the first NFTL is filed.

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

¹ I.R.C. §§ 6321 and 6323.

² I.R.C. § 6323.

³ See Appendix V for a synopsis of the IRS collection and NFTL filing processes.

⁴ Pub. L. No. 105-206, 112 Stat. 685.

⁵ I.R.C. § 6320.

⁶ Letter 3172, *Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320*.

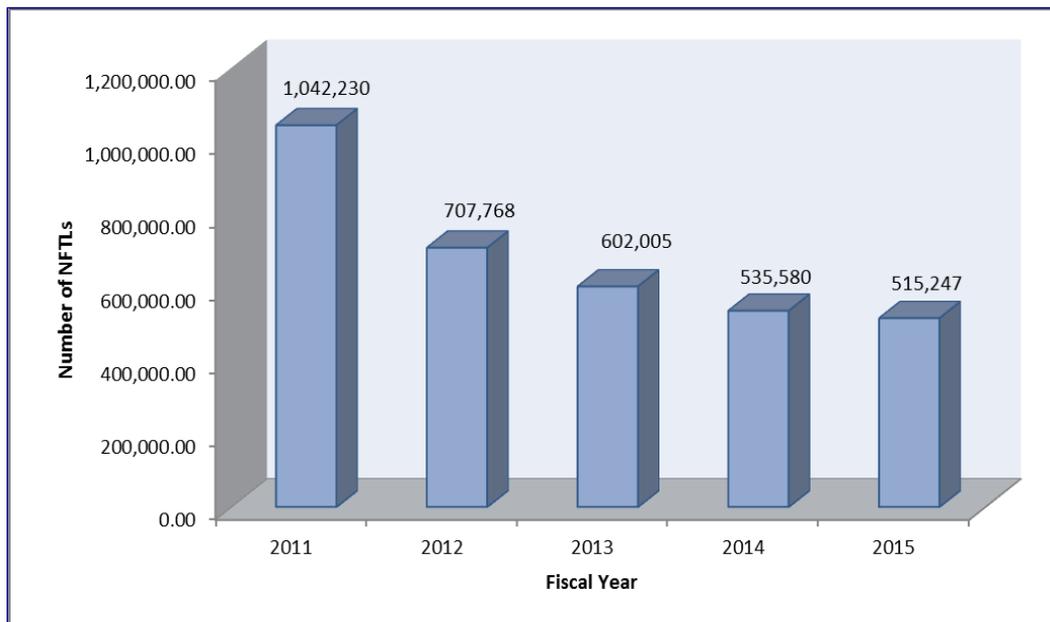


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Depending on employee access and case status, NFTL requests can be generated using one of three IRS systems: 1) the Integrated Collection System (ICS), 2) the Automated Collection System (ACS), or 3) the Automated Lien System (ALS).⁷

In Fiscal Year 2011, the IRS implemented the Fresh Start initiative to provide aid to struggling taxpayers.⁸ This initiative increased the threshold for when NFTL filing determinations are generally made from \$5,000 to \$10,000, resulting in fewer NFTLs filed. In recent years, declining Collection program resources have also contributed to the downward trend of NFTL filings. Figure 1 shows the number of NFTLs filed for Fiscal Years 2011 through 2015 and that the number of NFTLs filed decreased from to 535,580 to 515,247 (4 percent) between Fiscal Years 2014 and 2015.

Figure 1: Number of NFTLs Filed for Fiscal Years 2011 Through 2015



Source: IRS Data Book for Fiscal Years 2011 through 2015.

Also, I.R.C. § 6320(c) provides that for purposes of a taxpayer's appeal of an NFTL, certain paragraphs of I.R.C. § 6330 shall apply.⁹ Specifically, if a hearing is requested for the NFTL filing, policy is that levy actions generally shall be suspended for the period during which such hearing and appeals therein are pending.¹⁰

⁷ See Appendix VI for detailed descriptions of the IRS computer systems used in the filing of the NFTLs.

⁸ A fiscal year is 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.

⁹ I.R.C. §§ 6320(c), *Conduct of hearing; review; suspensions*, and 6330(e), *Suspension of collections and statute of limitations*.

¹⁰ I.R.C. § 6330(a)(3)(B).



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The Treasury Inspector General for Tax Administration (TIGTA) is required to determine annually whether the IRS complied with the law pertaining to CDP rights when filing NFTLs.¹¹ This is our eighteenth annual audit to determine whether the IRS complied with the legal requirements of I.R.C. § 6320(a) and its own related internal guidelines for issuing lien notices.¹² This year we are reporting that the IRS complied with the law of timely notifying taxpayers at their last known address (based on our review of a statistically valid random sample of lien notices) and that the IRS suspended or did not take any levy action that involved the same tax period as the NFTL under appeal (based on our review of a statistically valid random sample of Appeals cases). However, we identified nine instances in which taxpayers were not timely notified at their last known address during our review of a judgmental sample of undelivered lien notices.

In the previous five years, including this year, we have reported full compliance with the law of timely notifying taxpayers four times and once reported an error rate of 2 percent or less. In all five years, we reported that the IRS had not achieved full compliance with internal guidelines involving power of attorney notifications.

This review was performed at the Small Business/Self-Employed Division's Centralized Lien Processing Operation and the ACS Support function in Fresno, California, and Covington, Kentucky, and with information obtained from the Small Business/Self-Employed Division's Office of Collection Policy in New Carrollton, Maryland, during the period November 2015 through March 2016. 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.

¹¹ I.R.C. § 7803(d)(1)(A)(iii).

¹² See Appendix VIII for a list of the prior five TIGTA reports.



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Results of Review

Lien Notices Were Usually Mailed Timely to Taxpayers' Last Known Addresses

Tests of a statistically valid random sample of 133 NFTLs from the 506,874 NFTLs filed between July 1, 2014, and June 30, 2015, showed that the IRS timely and correctly mailed a copy of the NFTL and notice of appeal rights to all 133 taxpayers' last known addresses, as required by I.R.C. § 6320(a). Although tests of the random sample of NFTLs did not identify any violations, tests of a judgmental sample of undelivered lien notices showed that the IRS did not always send lien notices to the taxpayer's last known address.¹³

We tested a judgmental sample of 162 undelivered lien notices and identified nine cases in which the IRS did not send the lien notice to the taxpayer's last known address. For the nine lien notices, the taxpayers' addresses on the IRS computer system were updated prior to the cycle the NFTLs were prepared in the ALS. The IRS subsequently sent the notices to the proper addresses; however, the taxpayers' rights were potentially violated because the IRS did not meet its statutory requirement to timely send each lien notice to the taxpayer's last known address when the NFTL was filed.¹⁴ Seven of these nine cases involved a spouse living at a different address. Although the IRS mailed each spouse a separate lien notice, they used the primary taxpayer's address for both spouses. As a result, these seven lien notices were returned to the IRS as undelivered. When there is a joint liability, each spouse should be sent the same notice in separate envelopes addressed respectively to each spouse at his or her last known address, including spouses who share the same address and spouses who reside at different addresses.¹⁵

Although IRS procedures instruct that joint liability taxpayers may have separate addresses and that lien notices must be sent to each spouse at his or her respective last known address, these procedures did not ensure that lien notices were sent to each spouse at his or her respective last known address.¹⁶ The ALS recognizes the joint liability and sends separate notices to each

¹³ The complete description of this judgmental sample and our results can be found in a subsequent section of this report, entitled *Procedures to Process Undelivered Lien Notices Were Not Always Followed*.

¹⁴ I.R.C. § 6320. For example, in March 2010, the U.S. Tax Court found that an IRS lien notice was invalid because it was not mailed to the individual's last known address. *Roberts v Comm'r, T.C. Summ. Op. 2010-21*. The U.S. Tax Court, in a case filed March 1, 2010, found that the lien notice issued with respect to a taxpayer's Tax Year 2002 tax return was not mailed to the taxpayer's last known address, nor was it received, and, therefore, it is invalid. Consequently, the IRS is required, under the provisions of § 6320 and the accompanying regulations, to issue to the taxpayer a substitute lien notice and provide him or her with an opportunity to request a lien hearing.

¹⁵ Statutory requirement (I.R.C. § 6320) and applicable IRS procedure [Internal Revenue Manual (IRM) 5.12.6.3.5, (Oct. 14, 2013)].

¹⁶ IRMs 5.12.6.3.5, 5.12.6.3.7, (Oct. 14, 2013) and 5.19.4.6.2, (Dec. 23, 2015).



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person, but by default the primary taxpayer's address is used to mail the lien notice to the secondary taxpayer. A lien notice is sent to the secondary taxpayer at his or her last known address only if the requestor knows that the secondary taxpayer has a different mailing address and they provide that information to the lien unit.

Recommendation

Recommendation 1: The Director, Collection, Small Business/Self-Employed Division, should determine if programming changes are viable for the systemic upload and use of the secondary taxpayer's last known address for mailing lien notices for NFTLs with joint liabilities. Also, revise applicable IRM sections to require employees requesting an NFTL involving joint liability to research Integrated Data Retrieval System (IDRS)¹⁷ for the last known address of the secondary spouse.

Management's Response: IRS management agrees with this recommendation. The IRS will contact the programmers of the affected systems to discuss the changes needed for the systemic upload and use of secondary taxpayer address information when mailing lien notices. Programming changes will be requested, if feasible, but will be dependent on budgetary constraints, limited resources, and competing priorities. IRM 5.12.7 and 5.19.4 will be revised to clarify procedures for identifying the address of the secondary taxpayer when requesting NFTLs on joint liabilities.

Enforcement Actions Were Suspended When Taxpayers Appealed Their NFTL Notices of Federal Tax Liens

Tests of a random sample of 25 open NFTL appeal cases as of March 2016 showed that the IRS suspended or did not take any levy action that involved the same tax period as the NFTL under appeal, as generally required by policy.

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

Taxpayer representative information is contained on the Centralized Authorization File (CAF) that is located on the IDRS.¹⁸ Using the IDRS, employees can research the CAF to identify the types of authorizations given to taxpayer representatives. IRS regulations require that any notice or other written communication (or a copy thereof) required or permitted to be given to a taxpayer in any matter before the IRS must be given to the taxpayer and, unless restricted by the

¹⁷ The IDRS is an IRS computer system capable of retrieving or updating stored information; it works in conjunction with a taxpayer's account records.

¹⁸ The CAF contains information about the types of authorizations taxpayers have given their representatives for their tax returns.



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taxpayer, to the representative. More specifically, when an NFTL is filed, IRS regulations require that a copy of the lien notice be sent to the taxpayer's representative as soon as possible after the lien notice is sent to the taxpayer.¹⁹ Accordingly, IRS procedures require the requestor of an NFTL to ensure that he or she notifies the Centralized Lien Processing Operation of all powers of attorney that are to be notified. Tests of a statistically valid sample of 133 NFTLs included 37 taxpayers with representatives authorized to receive notifications at the time the NFTLs were filed. For six (16 percent) of 37 cases with an authorized representative, ALS records did not indicate that the IRS sent copies of the lien notices to the taxpayers' representatives.²⁰ Specifically:

- *****1***** NFTLs were initiated by revenue officers using the ICS, but the power of attorney information posted to the IDRS and was not communicated to the ALS before the lien notices were created for the taxpayers.²¹
- *****1*****
*****1*****
*****1*****
*****1*****.
- *****1*****
*****1*****
*****1*****.²²

Figure 2 shows the error rates reported on the notification of taxpayer representatives in our last five reports, including this year.²³

¹⁹ *Conference and Practice Requirements, Statement of Procedural Rules*, 26 C.F.R. § 601.506 (2009).

²⁰ The point estimate projection is based on a two-sided 90 percent confidence interval. We are 90 percent confident that the true percentage of taxpayers with representatives whose representative was not notified is between 6.11 percent and 26.32 percent.

²¹ Revenue officers are employees in the Collection Field function who attempt to contact taxpayers and resolve collection matters that have not been resolved through notices sent by the IRS campuses or the ACS. Campuses are the data processing arm of the IRS. The campuses process paper and electronic submissions, correct errors, and forward data to the Computing Centers for analysis and posting to taxpayer accounts.

²² *Conference and Practice Requirements, Statement of Procedural Rules*, 26 C.F.R. § 601.506 (2009).

²³ See Appendix VII for the confidence intervals pertaining to the notification of taxpayer representatives error rates reported during Fiscal Years 2011 through 2015.



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**Figure 2: Error Rates Reported on the
Notification of Taxpayer Representatives**

Report Fiscal Year	Sampled Cases Requiring Representative Notification	Sampled Cases Not Receiving Representative Notification	Error Rate
2012	22	4	18%
2013	47	5	11%
2014	***1**	***1**	***1**
2015	36	6	17%
2016	37	6	16%

Source: Prior and current year results of TIGTA's tests on the notification of taxpayer representatives. We reviewed an ALS extract for the 12-month period ending June 30 for each of the report fiscal years.

While the error rate dropped to ***1*** in our Fiscal Year 2014 report, this year's error rate of 16 percent shows that the potential for taxpayers being adversely affected still exists for cases requiring taxpayer representative notification. We project that 22,866 taxpayers may have been adversely affected because the IRS did not follow procedures to notify the taxpayers' representatives of the taxpayers' rights related to the NFTLs.²⁴

In our Fiscal Year 2013 report, we recommended that the IRS revise the NFTL request form to include a checkbox indicating whether a valid power of attorney is required to be sent a copy of the lien notice and establish procedures requiring the lien unit to verify all NFTL requests for which the checkbox is blank.²⁵ Form 12636, *Request for Filing or Refiling Notice of Federal Tax Lien*, was revised in August 2013 in accordance with our recommendation. In our Fiscal Year 2015 report, we recommended that the IRS establish procedures requiring the lien unit to verify all NFTL requests for which the checkbox on Form 12636, Line 4, is blank.²⁶ In January 2014, the appropriate procedures were revised to require the lien unit to verify all NFTL requests for which the checkbox on Form 12636, Line 4, was blank; however, the procedures could not be fully implemented at that time because the updates to programming for the use of revised Form 12636 were not completed until April 2015. All of the power of attorney exception cases in this year's audit occurred prior to April 2015, before the corrective action for last year's

²⁴ The projection is based on six (5 percent) of 133 randomly sampled cases. The point estimate projection is based on a two-sided 90 percent confidence interval. We are 90 percent confident that the range of potential violations is between 7,807 and 37,926.

²⁵ TIGTA, Ref. No. 2013-30-072, *Fiscal Year 2013 Statutory Review of Compliance With Lien Due Process Procedures* (July 2013).

²⁶ TIGTA, Ref. No. 2015-30-055, *Fiscal Year 2015 Statutory Review of Compliance With Lien Due Process Procedures* (June 2015).



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recommendation was completed. Because the corrective action is now in place, it will be evaluated during next year's statutory review. Accordingly, we are not making a recommendation this year.

Management Statement: Management stated that the errors identified were not from a statistically valid sample. As such, they did not agree with our projected outcome measure estimate of 22,866 taxpayers potentially burdened.

Office of Audit Comment: Management's assertion is incorrect. For the taxpayer representative notifications, we used a statistically valid sample approved by TIGTA's contract statistician. During the audit, IRS management stated their view that because not all taxpayers in TIGTA's sample had representatives (37 of 133 sampled taxpayers had representatives), this attribute was confined to a subset of the sample; therefore, projections could not be made. However, TIGTA's projection was based on the total number of taxpayers in the sample, not just the number of taxpayers in the sample who had representatives (6 errors / 133 sample size x 506,874 population = 22,866 taxpayers). It is common that some procedures are not applicable in a portion of cases sampled from a population of taxpayers. TIGTA has used the same methodology in prior years, and the IRS has agreed with the findings and associated outcome measures.

Procedures to Process Undelivered Lien Notices Were Not Always Followed

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

- The originally mailed notice is returned as undelivered mail.
- Research confirms that the original lien notice was not sent to the last known address.
- The new address was effective prior to the NFTL request.²⁷

Collection function employees are responsible for certain actions when notices are returned as undelivered. For example, ACS Support employees are required to research the IDRS within 14 calendar days of receipt of the undelivered lien notice to ensure that the address on the original lien notice is correct.²⁸ If the employee cannot find a new address on the computer system, the undelivered lien notice should be destroyed and a new notice is not issued. If the address on the lien notice is not the last known address and a different address was in effect prior to the NFTL being requested, employees should issue a new lien notice to the new address.²⁹ A new lien notice is created by using an option in the ALS.

²⁷ IRM 5.19.6.17.4, *Undeliverable Notice of Federal Tax Lien (NFTL)*, (Nov. 4, 2013).

²⁸ IRM 5.19.6.17.4, (Nov. 4, 2013).

²⁹ IRM 5.19.6.17.4(5), *Undeliverable Notice of Federal Tax Lien*, (Nov. 4, 2013).



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We selected a judgmental sample of 162 undelivered lien notices returned to the Cincinnati (86 lien notices) and Fresno (76 lien notices) Campuses in November 2015.³⁰ The sample included returned lien notices identified as undelivered and excluded lien notices marked unclaimed or refused or that had multiple, conflicting return stamps. A test of 162 undelivered lien notices identified 23 lien notices for which the address on the IRS computer system and the original lien notice did not agree. For nine of the 23 notices, the address on the IRS computer system was updated prior to the cycle the NFTL was prepared in the ALS.³¹ Because of the timing of the address update, IRS procedures require that a lien notice be sent to these taxpayers using the updated addresses. However, a lien notice was only sent to three taxpayers using the updated addresses. When we brought this observation to management's attention, the IRS agreed to resend lien notices to the six other taxpayers using the updated addresses.

For the remaining 14 cases, the address on the IRS computer system was updated after the NFTL was requested. Therefore, no additional action was required. However, we determined that for three of the 14 taxpayers, the Cincinnati Campus sent a lien notice (courtesy copy) using the updated address. In July 2010, the IRS implemented procedures for Field Collection revenue officers intended to improve customer service to taxpayers. Specifically, the procedures allowed employees to send a courtesy copy of the lien notice to a taxpayer's new address if the new address was effective during the cycle after the original lien notice was issued. A courtesy copy was sent for three of the 14 notices. Management advised us that the courtesy copy procedures are located in the Field Collection IRM and not the ACS Support IRM.³² While the courtesy copy procedure is voluntary for Field Collection employees and not a statutory requirement, following the procedure provides better customer service to the taxpayer. Accordingly, adding these procedures to the ACS Support IRM would enable the ACS to provide better customer service to the taxpayer since ACS Support employees must already perform research for the last known address. As a result, the majority of work involved in sending a lien notice to the updated address is already being completed.

Internal procedures for undelivered NFTLs were not always followed

IRS procedures require address verification of the undelivered lien notices within 14 calendar days of receipt in the ACS Support function.³³ If the ACS Support function employees determine that a more current address is available, then they must request that the lien notice be reissued. For our judgmental sample of 162 lien notices, we reviewed computer system audit trails to assess whether IRS employees performed timely research to determine whether the addresses were correct on the originally mailed notices. We determined that 153 of the

³⁰ A judgmental sample is a nonstatistical sample, the results of which cannot be used to project to the population.

³¹ Seven of these nine cases involved a spouse who lived at a different address, which was discussed previously in this report.

³² IRM 5.12.6.3.17, (Oct. 14, 2013).

³³ IRM 5.19.6.17.4, (Nov. 4, 2013).



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162 cases were researched timely (nine cases were not researched timely) by ACS Support function employees.

In January 2012, IRS procedures were revised to require ACS Support function employees to document the date undelivered lien notices are received in the ACS Support function and the date research is completed.³⁴ Documentation should be noted in the ACS action history codes (if the taxpayer's account is still open) or in the Accounts Management System narrative history (if the taxpayer's account is closed).³⁵ While 153 cases were researched timely, 13 of the 162 cases were not properly documented.

Fresno Campus: All 76 sampled undeliverable lien notices were researched timely. The Fresno Campus ACS Support function properly documented the received date for 74 of the 76 cases (two of the 76 sampled cases were not properly documented).

Cincinnati Campus: Nine of the 86 sampled undelivered lien notices were not researched timely. The Cincinnati Campus ACS Support function properly documented the received date for 75 of the 86 cases (11 of the 86 sampled cases were not properly documented).

Without timely research of undelivered lien notices, the IRS cannot ensure that taxpayer rights are protected if the IRS did not send the lien notice to the taxpayer's last known address. The IRS is required to issue a new lien notice to the new address if this research determines that a lien notice was not sent to the taxpayer's last known address.³⁶

Procedures designed to monitor undelivered lien notices were not always followed

In August 2007, procedures for handling undelivered lien notices were revised so that:

- An undeliverable notice is returned directly to the requesting employee or function.
- Employees handling undelivered lien notices should input a specific IDRS transaction code with an appropriate action code. The transaction code signifies that the lien notice was returned, and the action code indicates the reason, *e.g.*, undelivered, unclaimed, or refused.³⁷

In August 2009, the weekly systemic extract from the ALS to the Master File was enhanced to accommodate the upload of the undeliverable status (transaction code and action code).³⁸ When

³⁴ IRM 5.19.6.17.4, (Nov. 4, 2013).

³⁵ The Account Management System is a computer-based system used to answer and resolve all taxpayer account inquiries. It provides a common interface that allows users of multiple IRS systems to view history and comments from other systems.

³⁶ I.R.C. § 6320.

³⁷ IRM 5.19.6.17.4, (Nov. 4, 2013).

³⁸ The Master File is the IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.



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a lien notice is returned undelivered and research has been completed regarding an updated address, the employee can request that the lien notice screen on the ALS be updated with the undelivered status or go to the lien notice screen themselves and indicate the undelivered status. When the ALS is used to update the status of the lien notice, no additional input is necessary to update the status on the IDRS.

In November 2013, the ACS Support function's IRM was updated requiring ACS Support function employees to use the ALS lien notice screen to prompt the input of this transaction code and action code combination.³⁹ For 145 of the 162 cases that were returned undeliverable, a transaction code and action code were input to the IDRS. For the 17 remaining cases, the ALS was not updated with the mail status to reflect that the lien notice was returned undelivered. Had the ALS been updated with the mail status, the IDRS would have automatically been updated with the required transaction code and action code combination.

Compliance with these procedures is important because IRS employees update the information in the Master File account for these taxpayers; otherwise, the information about the undelivered lien notice would be limited to only those employees working the undelivered mail. As a result, other IRS functional employees who use the Master File account to obtain information about the taxpayer, such as Taxpayer Assistance Center employees, would be unable to answer taxpayer questions about whether the lien notices were delivered.⁴⁰

Recommendations

Recommendation 2: The Director, Collection, Small Business/Self-Employed Division, should revise the IRM by making procedures pertaining to courtesy copies of lien notices applicable to ACS employees.

Management's Response: IRS management agrees with this recommendation. IRM 5.19.6.17.4(5) will be revised to reflect the language found in IRM 5.12.6.3.17(7).

Recommendation 3: The Director, Collection, Small Business/Self-Employed Division, should remind the ACS Support function's employees of the IRM requirement to use the ALS lien notice screen to update the mail status of the lien notice with the appropriate transaction code and action code combination.

Management's Response: IRS management agrees with this recommendation. ACS Support employees in Cincinnati and Fresno will be reminded to follow the procedures in IRM 5.19.6.7.4(7) and the ALS User Guide to update the mail status of the lien notice so the appropriate transaction code and action code combination will post to the taxpayer's account.

³⁹ IRM 5.19.6.17.4, (Nov. 4, 2013).

⁴⁰ A Taxpayer Assistance Center is an IRS office with employees who answer questions, provide assistance, and resolve account-related issues for taxpayers face to face.



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Appendix I

Detailed Objective, Scope, and Methodology

Our overall objective was to determine whether lien notices issued by the IRS comply with legal guidelines set forth in I.R.C. § 6320, Treasury Regulations, and IRS procedures. To accomplish this objective, we:

- I. Determined whether lien notices issued by the IRS complied with legal requirements set forth in I.R.C. § 6320(a) and related internal guidelines.
 - A. Selected a statistically valid random sample of 133 NFTLs for review from an ALS extract of all NFTLs filed by the IRS nationwide between July 1, 2014, and June 30, 2015.¹

Population:	506,874
Confidence Level:	90 percent
Expected Rate of Occurrence:	2 percent
Precision Rate:	±2 percent
 - B. Validated the ALS extract by comparing a sample of records to online data. We determined that the data were sufficiently reliable for purposes of this report.
 - C. Determined whether the sampled NFTLs adhered to legal guidelines regarding timely notifications of NFTL filings to the taxpayer, the taxpayer's spouse, business partners, and taxpayer representatives by reviewing data from the ALS, the ICS, the ACS, the IDRS, and the certified mail lists (U.S. Postal Service Form 3877, *Firm Mailing Book for Accountable Mail*).
 - D. Evaluated the controls and procedures established for transferring, storing, and safeguarding certified mail lists at the Centralized Lien Processing Operation for recordkeeping.
 - E. Determined if taxpayers' representatives were provided a copy of the NFTL due process notice by reviewing data from the ALS, the IDRS, the ICS, and the ACS.
 1. Reviewed IDRS screens for CAF indicators (Transaction Code 960) for all sample cases.
 2. Reviewed ALS history screens for accounts with CAF indicators to see whether notices were mailed to taxpayers' representatives.

¹ See Appendix VI for detailed descriptions of the IRS computer systems used in the filing of NFTLs.



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- F. For the sampled lien notices without the taxpayer's representative/power of attorney notifications on the ALS histories, reviewed the ACS and the ICS for taxpayer representative indicators and determined whether taxpayer representatives/powers of attorney should have been notified.
- II. Evaluated the procedures for processing lien notices (Letter 3172, *Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320*) that are returned undelivered.
- A. Selected a judgmental sample² of unprocessed (unopened) mail containing 162 undelivered lien notices returned to the Fresno (76) and Cincinnati (86) Campuses in November 2015 and recorded the taxpayer's name, address, Social Security Number, Serial Lien Identification number, and date received at the respective campus mailroom.³ Mailroom personnel from the Fresno and Cincinnati Campuses provided us with confirmation of the dates the sampled undelivered lien notices were delivered to the ACS Support functions. We used a judgmental sample because we could not determine the population of undelivered lien notices at those two campuses.
- B. For each sample case, researched the IDRS to determine whether the address on the Master File matched the address on the undelivered lien notice.⁴
- C. For each sample case of an undelivered lien notice, reviewed taxpayer audit trails to determine whether employees performed the required IDRS research during creation of the NFTL.
- D. For each sample case, reviewed taxpayer audit trails and the ACS and Accounts Management System histories to determine whether employees performed the required IDRS research for resolution of the undeliverable status within 14 calendar days of receipt of the undelivered lien notice.
- E. For each sample case of an undelivered lien notice for which appropriate research was completed for resolution of the undeliverable status, verified that a Transaction Code 971 with an Action Code 253 was entered into the IDRS. Action Code 253 means that the lien notice was returned undelivered.

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

³ A campus is the data processing arm of the IRS. The campuses process paper and electronic submissions, correct errors, and forward data to the Computing Centers for analysis and posting to taxpayer accounts.

⁴ The IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.



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- III. Determined whether the IRS complied with IRM requirements as they relate to any levy action involving the same tax period as the § 6320 NFTL.
- A. Obtained an extract of open Appeals cases (as of March 2016) for review from an Appeals Centralized Database System extract of all open NFTL appeals. There were 6,779 Appeals cases for which the appeal pertained to the NFTL.
- B. Selected a statistically valid random sample of 25 Appeals cases for review from the 6,779 open Appeals cases.
- | | |
|------------------------------|------------|
| Population: | 6,779 |
| Confidence Level: | 90 percent |
| Expected Rate of Occurrence: | 5 percent |
| Precision Rate: | ±2 percent |
- C. Determined if the 25 open cases adhered to IRM guidelines by ensuring that the IRS did not take or suspended any levy action that involved the same tax period as the NFTL. We used specific information (*i.e.*, Taxpayer Identification Number and tax period) from the appealed cases to review appropriate Master File data to identify any levy action for the same tax period as the NFTL.
- D. Validated the Appeals Centralized Database System extract by comparing a sample of its records with Master File data.

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 Collection function's policies, procedures, and practices for timely notifying taxpayers of NFTL filings and timely verifying addresses of undelivered lien notices. We evaluated these controls by reviewing samples of lien notices sent to taxpayers and lien notices returned to the IRS as undelivered.



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Appendix II

Major Contributors to This Report

Mathew Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations)
Carl Aley, Director
Tim Greiner, Audit Manager
Meaghan Tocco, Lead Auditor
Charles Nall, Senior Auditor
Mark Willoughby, Senior Auditor
John Baxter, Auditor
Jon-Michael Socaris, Auditor
Heath Sollak, Auditor



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Appendix III

Report Distribution List

Commissioner
Office of the Commissioner – Attn: Chief of Staff
Deputy Commissioner for Services and Enforcement
Director, Collection, Small Business/Self-Employed Division
Director, Campus Collections, Small Business/Self-Employed Division
Director, Field Collection, Small Business/Self-Employed Division
Director, Headquarters Collection, Small Business/Self-Employed Division
Director, Collection Policy, Small Business/Self-Employed Division
Director, Office of Audit Coordination



Appendix IV

Outcome Measures

This appendix presents detailed information on the measurable impact that our recommended corrective action 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; seven taxpayers were not timely provided Letters 3172, *Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320*, resulting in potential legal violations of taxpayers’ rights (see page 4).

Methodology Used to Measure the Reported Benefit:

In a judgmental sample of 162 undelivered lien notices, we determined that the IRS did not send notices to the taxpayer’s last known address of nine taxpayers. Research was not properly conducted prior to mailing these lien notices to ensure that they were sent to each taxpayer at his or her last known address. Seven of these nine cases involved a spouse living at a different address. Although the IRS mailed each spouse a separate lien notice, they used the primary taxpayer’s address for both spouses. As a result, these seven lien notices were returned to the IRS as undelivered. Taxpayer rights could be affected because a taxpayer not receiving a notice or receiving a late notice might be unaware of the right to appeal. *****1*****
 *****1*****
 *****1*****¹

Type and Value of Outcome Measure:

- Taxpayer Burden – Potential; 22,866 taxpayers whose representatives may not have been provided copies of Letters 3172 (see page 5).

Methodology Used to Measure the Reported Benefit:

From a statistically valid sample of 133 NFTL cases, we identified 37 cases with representatives authorized to receive notifications at the time the liens were filed. From those 37 cases, we identified six cases for which IRS employees did not provide notice to taxpayer representatives, resulting in potential taxpayer burden. The sample was selected based on a confidence level of 90 percent, a precision rate of ± 2 percent, and an expected rate of occurrence of 2 percent. We projected the error rate (six of 133 = 4.51 percent) to the total population (provided by the IRS)

¹ *****1*****



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of 506,874 NFTLs generated by the ALS between July 1, 2014, and June 30, 2015, to arrive at 22,866 taxpayers whose representatives may not have been provided notification. We are 90 percent confident that the range of potential violations is between 7,807 and 37,926.



Appendix V

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

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

- IRS employees who make personal (face-to-face) contact with taxpayers are called revenue officers and work in various locations. The ICS is used to track collection actions taken on taxpayer accounts.¹
- IRS employees who make only telephone contact with taxpayers work in call sites. The ACS is used in the call sites to track collection actions taken on taxpayer accounts.

When these efforts have been taken and the taxpayer has not paid the tax liability, designated IRS employees are authorized to file an NFTL by sending a Form 668(Y)(c), *Notice of Federal Tax Lien*, to the appropriate local government offices. The NFTLs protect the Federal Government's interest by informing the public of its claim to the taxpayer's assets for the amount of unpaid tax. The Federal tax lien is created by I.R.C. § 6321 when:

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

The right to file an NFTL is found in I.R.C. § 6323. When employees request the filing of an NFTL using either the ICS or the ACS, the ALS processes the NFTL filing requests. In an expedited situation, employees can manually prepare the NFTL. Even for manually prepared NFTLs, the ALS controls and tracks the NFTLs and initiates subsequent lien notices to notify responsible parties of the NFTL filings and of their appeal rights.² The ALS maintains an electronic database of all open NFTLs and updates the IRS's primary computer records to indicate that an NFTL has been filed.

Most lien notices are mailed to taxpayers by certified or registered mail rather than delivered in person. To maintain a record of the notices, the IRS prepares a certified mail list (U.S. Postal

¹ See Appendix VI for detailed descriptions of the IRS computer systems used in the filing of NFTLs.

² Letter 3172, *Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320*.



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Service Form 3877, *Firm Mailing Book for Accountable Mail*), which identifies each notice that is to be mailed. The lien notices and a copy of the certified mail list are delivered to the U.S. Postal Service. A U.S. Postal Service employee ensures that all notices are accounted for, date-stamps the list, and returns a copy to the IRS. The stamped certified mail list is the only documentation the IRS has that certifies the date on which the notices were mailed. IRS guidelines require that the stamped certified mail list be retained for 10 years after the end of the processing year.



Appendix VI

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

Automated Collection System (ACS) – a computerized call site inventory system that maintains balance due accounts and return delinquency investigations. ACS function employees enter all of their case file information (online) on the ACS. The NFTLs requested using the ACS are uploaded to the ALS, which generates the Form 668(Y)(c), *Notice of Federal Tax Lien*, and related lien notices and updates the IRS’s primary computer files to indicate that the NFTLs have been filed.

Automated Lien System (ALS) – a comprehensive database that prints the NFTLs, generates lien notices, stores taxpayer information, and documents all lien activity. Lien activities on both ACS and ICS cases are controlled on the ALS by Centralized Lien Operation functions at the Cincinnati, Ohio, Campus.¹ Employees at the Cincinnati Campus process the NFTLs and respond to taxpayer inquiries using the ALS.

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

Integrated Data Retrieval System (IDRS) – an online data retrieval and data entry system that processes transactions entered from terminals located in campuses and other IRS locations. It enables employees to perform such tasks as researching account information, requesting tax returns, entering collection information, and generating collection documents. The IDRS serves as a link from campuses and other IRS locations to the Master File for the IRS to maintain accurate records of activity on taxpayers’ accounts.²

¹ A campus is the data processing arm of the IRS. The campuses process paper and electronic submissions, correct errors, and forward data to the Computing Centers for analysis and posting to taxpayer accounts.

² The Master File is the IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.



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Appendix VII

*Confidence Intervals for Notification of
Taxpayer Representatives Error Rates Reported
During Fiscal Years 2011 Through 2015*

***Two-sided 90 percent confidence intervals using the
exact binomial method for the exception rate
for Fiscal Years 2011 through 2015***

Report Fiscal Year	Sample Cases Requiring Representative Notification	Sample Cases Not Receiving Representative Notification	Error Rate	Confidence Interval
2011	30	4	13%	Between 4.70% and 28.00%
2012	22	4	18%	Between 6.48% and 36.90%
2013	47	5	11%	Between 4.28% and 21.10%
2014	**1**	**1**	**1**	Between 0.14% and 11.90%
2015	36	6	17%	Between 4.51% and 27.07%

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



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Appendix VIII

*Statutory Lien Reports Issued During
Fiscal Years 2011 Through 2015*

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

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

TIGTA, Ref. No. 2013-30-072, *Fiscal Year 2013 Statutory Review of Compliance With Lien Due Process Procedures* (July 2013).

TIGTA, Ref. No. 2014-30-061, *Fiscal Year 2014 Statutory Review of Compliance With Notice of Federal Tax Lien Due Process Procedures* (Sept. 2014).

TIGTA, Ref. No. 2015-30-055, *Fiscal Year 2015 Statutory Review of Compliance With Notice of Federal Tax Lien Due Process Procedures* (June 2015).



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Appendix IX

Management's Response to the Draft Report



COMMISSIONER
SMALL BUSINESS/SELF-EMPLOYED DIVISION

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

JUN 13 2016

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 2016 Statutory Review of
Compliance with Notice of Federal Tax Lien Due Process
Procedures (Audit # 201630001)

Thank you for the opportunity to review the above subject draft report. The Notice of Federal Tax Lien (NFTL) process is an important component of our collection strategy to protect the government's interest in unpaid taxes while remaining mindful of taxpayer rights. We appreciate your recognition that the IRS timely and correctly notified the taxpayers of the NFTL filings and their appeal rights in all of the cases in your statistically valid sample. We concur that the timely and proper issuance of NFTL collection due process notices is of utmost importance. While this is the fourth time in five years you found no errors in the sample of taxpayer notices, we continue to explore ways to enhance our systemic processes to ensure notices are sent, as required, to the most current addresses of the taxpayers and, pursuant to policy, to authorized representatives.

In tests of a judgmental (i.e., non-statistically valid) sample, you identified nine instances in which the IRS did not send the lien notice to the taxpayer's last known address. Most of these cases involved a spouse living at a different address. We agree with your recommendation to clarify procedures for identifying the address of the secondary taxpayer when requesting NFTLs on joint liabilities. As you noted, the IRS took corrective actions in all of these cases, reissuing lien notices for three of the cases upon receipt of the undelivered lien notices and subsequently reissuing lien notices for the remaining six cases.

In the interest of providing additional customer service to taxpayers, we agree with your recommendation to make existing procedures for Field Collection employees, pertaining to courtesy copies of lien notices, applicable to Automated Collection System (ACS) employees as well. To improve our procedures for undelivered lien notices, we also agree to remind ACS Support employees to follow procedures to update the mail status of the lien notice so the appropriate transaction code and action code combination are posted to the taxpayer's account.



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2

Because none of the errors you found in this audit came from the statistically valid sample, we do not agree with the projection estimating a potential taxpayer burden of 22,866 taxpayers. While it is clear that errors do occur, the correct potential taxpayer burden figure based on the analysis you conducted is not known.

We will continue to work to improve our processes with regard to the issuance of lien collection due process notices in order to protect taxpayer rights. We appreciate your continued support and insight in this regard.

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

If you have any questions, please contact me, or a member of your staff may contact 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 determine if programming changes are viable for the systemic upload and use of the secondary taxpayer's last known address for mailing lien notices for NFTLs with joint liabilities. Also, revise applicable IRM sections to require employees requesting a NFTL involving joint liability to research Integrated Data Retrieval System (IDRS) for the last known address of the secondary spouse.

CORRECTIVE ACTION:

We agree with this recommendation. We will contact the programmers of the impacted systems to discuss the changes needed for the systemic upload and use of secondary taxpayer address information when mailing lien notices. Programming changes will be requested, if feasible, but will be dependent on budgetary constraints, limited resources and competing priorities.

Internal Revenue Manual (IRM) 5.12.7 and 5.19.4 will be revised to clarify procedures for identifying the address of the secondary taxpayer when requesting NFTLs on joint liabilities.

IMPLEMENTATION DATE:

July 15, 2017

RESPONSIBLE OFFICIAL(S):

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 revise the IRM, by making procedures pertaining to courtesy copies of lien notices applicable to ACS employees.

CORRECTIVE ACTION:

We agree with this recommendation. We will revise IRM 5.19.6.17.4(5) to reflect the language found in IRM 5.12.6.3.17(7).

IMPLEMENTATION DATE:

April 15, 2017

RESPONSIBLE OFFICIAL(S):

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



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2

CORRECTIVE ACTION MONITORING PLAN:

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

RECOMMENDATION 3:

The Director, Collection, Small Business/Self-Employed Division, should remind the ACS Support function's employees of the IRM requirement to use the ALS lien notice screen to update the mail status of the lien notice with the appropriate transaction code and action code combination.

CORRECTIVE ACTION:

We agree with this recommendation. Automated Collection System (ACS) Support employees in Cincinnati and Fresno will be reminded to follow the procedures in IRM 5.19.6.7.4(7) and the Automated Lien System (ALS) User Guide to update the mail status of the lien notice so the appropriate transaction code and action code combination will post to the taxpayer's account.

IMPLEMENTATION DATE:

January 15, 2017

RESPONSIBLE OFFICIAL(S):

Director, Collection Policy, Small Business/Self-Employed Division (SB/SE)

CORRECTIVE ACTION MONITORING PLAN:

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