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*TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION*



*Fiscal Year 2016 Statutory Review  
of Compliance With Legal Guidelines  
When Issuing Levies*

**July 29, 2016**

**Reference Number: 2016-30-052**

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.

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## HIGHLIGHTS

### FISCAL YEAR 2016 STATUTORY REVIEW OF COMPLIANCE WITH LEGAL GUIDELINES WHEN ISSUING LEVIES

## Highlights

**Final Report issued on July 29, 2016**

Highlights of Reference Number: 2016-30-052 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

#### IMPACT ON TAXPAYERS

When taxpayers do not pay delinquent taxes, the IRS has authority to work directly with financial institutions and other third parties to seize taxpayers' assets. This action is commonly referred to as a "levy." The law requires the IRS to notify taxpayers at least 30 calendar days prior to the issuance of a levy and allows taxpayers the opportunity to request a Collection Due Process hearing prior to the first levy on a delinquent account.

#### WHY TIGTA DID THE AUDIT

This audit was initiated because TIGTA is responsible for annually determining whether the IRS complied with the IRS Restructuring and Reform Act of 1998 requirement to notify taxpayers prior to issuing levies. The overall objective of this audit was to determine whether the IRS complied with the IRS Restructuring and Reform Act of 1998 requirements to notify taxpayers and their authorized representatives of the right to a Collection Due Process hearing prior to issuing levies and to suspend levy action during the time frames required by I.R.C. § 6330.

#### WHAT TIGTA FOUND

The IRS is protecting taxpayers' rights when issuing systemic and manual levies in cases for which additional assessments were not included in the levy. TIGTA reviewed statistical samples of systemic and manual levies issued by the Automated Collection System and the Integrated Collection System and determined that controls ensured that taxpayers were given notice of their Collection Due Process rights at least 30 calendar days prior to the issuance of the

levies. Tests of a random sample of 30 open notice of intent to levy appeal cases also showed that the IRS suspended or did not take any collection action that involved the same tax period as the notice of intent to levy that was under appeal.

An additional review of statistical samples of taxpayers' cases that were worked in the Automated Collection System and that had additional tax assessed included in systemic (30 taxpayers) and manual (30 taxpayers) levies determined that there were five (17 percent) taxpayers with systemic and six (20 percent) taxpayers with manual levies who did not receive a new notice of intent to levy after an additional assessment was made on a tax period listed on the levy. A programming solution for this problem is scheduled to be implemented in January 2017.

In addition, a review of a statistical sample of 30 taxpayers whose cases were worked in Field Collection and who had additional assessments included in the systemic levies determined that there were 12 (40 percent) taxpayers who did not receive a new notice of intent to levy after an additional assessment was made on a tax period listed on the levy. Management implemented programming fixes for this problem in February and June 2016.

#### WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS provide clarification and reinforcement of the requirements for levies with additional assessments to Field Collection employees and provide training, which includes the topic of manual levies and taxpayer rights, to all revenue officers. In addition, the IRS should monitor levies with additional assessments until it is determined that all systemic programming fixes are working.

IRS management agreed with all recommendations and plans to monitor the Automated Collection System and the Integrated Collection System accounts until programming changes are completed and to test programming fixes. IRS management also plans to provide clarification and develop training for revenue officers on the rules for levies with additional assessments.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

July 29, 2016

**MEMORANDUM FOR** COMMISSIONER FOR 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 Legal Guidelines When Issuing Levies (Audit # 201630003)

This report presents the results of our review to determine whether the Internal Revenue Service has complied with the legal requirement to timely notify taxpayers prior to issuing levies per Internal Revenue Code (I.R.C.) Section (§) 6330, *Notice and Opportunity for Hearing Before Levy*.<sup>1</sup> This review is included in our Fiscal Year 2016 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.

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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<sup>1</sup> I.R.C. § 6330 (providing right to Collection Due Process Hearing prior to levy) and I.R.C. § 7803(d)(1)(A)(iv) requiring an evaluation of the IRS's compliance with I.R.C. § 6330.



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*Abbreviations*

ACS	Automated Collection System
CDP	Collection Due Process
DCW	Data Center Warehouse
ICS	Integrated Collection System
I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service
RO	Revenue Officer
TIGTA	Treasury Inspector General for Tax Administration



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## *Background*

When taxpayers do not pay delinquent taxes, the Internal Revenue Service (IRS) has the authority to work directly with financial institutions and other third parties to seize taxpayers' assets. This action is commonly referred to as a "levy" (see Appendix V for an example of Form 668-A, *Notice of Levy*).<sup>1</sup> The Internal Revenue Code<sup>2</sup> (I.R.C.) generally requires the IRS to provide taxpayers notice of its intention to levy at least 30 calendar days before initiating the levy action.<sup>3</sup>

The IRS Restructuring and Reform Act of 1998<sup>4</sup> expanded upon this notice requirement by creating I.R.C. Section (§) 6330,<sup>5</sup> which requires the IRS, in addition to giving the taxpayer 30 calendar days' notice of the IRS's intent to levy, to also notify taxpayers of their right to request a Collection Due Process (CDP) hearing at which taxpayers can raise various issues with respect to the proposed levy (CDP rights).<sup>6</sup> These provisions also require that all collection action be suspended during the 30 calendar days prior to the levy as well as throughout the entire period that a hearing (including any appeals from the hearing) is pending.<sup>7</sup> CDP rights include the right to a fair and impartial hearing before the Office of Appeals.

***The Treasury Inspector General  
for Tax Administration is required  
to annually verify whether the  
IRS is complying with the IRS  
Restructuring and Reform Act  
of 1998 requirement to notify  
taxpayers of the intention to levy  
at least 30 calendar days before  
initiating a levy action.***

The notice required by I.R.C. § 6330 must include the amount of unpaid tax, the right to request a CDP hearing, and the proposed action the IRS intends to take, along with other important information on topics such as collection alternatives. IRS policy also requires that a copy of the notice be sent to the taxpayer's authorized representative if the representative is specifically authorized to receive notices.<sup>8</sup>

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<sup>1</sup> I.R.C. § 6331(a) and (b).

<sup>2</sup> See Appendix VII for a glossary of terms.

<sup>3</sup> I.R.C. § 6331(d).

<sup>4</sup> Pub. L. No. 105-206, 112 Stat. 685.

<sup>5</sup> I.R.C. § 6330.

<sup>6</sup> I.R.C. § 6330(c) provides that taxpayers can raise "any relevant issue relating to the unpaid tax or the proposed levy including (i) appropriate spousal defenses; (ii) challenges to the appropriateness of collection actions; and (iii) offers of collection alternatives which may include the posting of a bond, substitution of other assets, an installment agreement, or an offer-in-compromise."

<sup>7</sup> I.R.C. § 6330(e).

<sup>8</sup> Internal Revenue Manual 5.1.23.3.2.3 (October 30, 2014).



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Generally, only one notice of intent to levy is required per tax period. However, a new notice is required when an additional assessment occurs on a tax period after the original notice of intent to levy has been sent to the taxpayer and the additional assessment amount will be included in the levy.<sup>9</sup>

The IRS Restructuring and Reform Act of 1998 also added I.R.C. § 7803(d)(1)(A)(iv), which requires the Treasury Inspector General for Tax Administration (TIGTA) to annually verify whether the IRS is complying with the required procedures under I.R.C. § 6330.<sup>10</sup> TIGTA conducts multiple reviews each year focusing on different aspects of the IRS's implementation of I.R.C. § 6330. This review focuses on whether the IRS provides the taxpayer with a notice of CDP appeal rights at least 30 calendar days before taking levy action. This is the eighteenth year in which we have evaluated the controls over levies. While levies can be issued for monetary or physical assets, this report specifically addresses levies of taxpayers' monetary assets.<sup>11</sup>

To collect delinquent taxes, levies are issued either systemically or manually by two operations within the IRS:

- The Automated Collection System (ACS), through which collection representatives interact with delinquent taxpayers by telephone to collect unpaid taxes and secure tax returns.
- Field Collection, through which revenue officers (ROs) contact delinquent taxpayers in person. Delinquent cases assigned to ROs in the field offices are controlled and monitored on the Integrated Collection System (ICS).

However, there is a higher risk of not complying with I.R.C. § 6330 and its related regulations and procedures when ROs issue manual levies because they request these levies outside of the systemic controls that exist on the ICS and not all manual levies receive managerial approval. Because the ICS is not generating the manual levies, the IRS cannot reliably track them. Therefore, it is impossible to determine the exact number of manual levies issued by ROs during our review period.

TIGTA audit reports issued prior to Fiscal Year 2005 reported that additional controls were needed over manual levies issued by ROs; however, since our Fiscal Year 2005 report, we have generally reported that ROs properly notified taxpayers of their right to a hearing when issuing manual levies.<sup>12</sup> Nevertheless, TIGTA still considers manual levies to be higher risk and will continue to thoroughly test them.

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<sup>9</sup> Internal Revenue Manual 5.19.4.3.1(5) (January 1, 2015).

<sup>10</sup> I.R.C. § 7803 (d)(1)(A)(iv).

<sup>11</sup> Examples of physical assets are real property, automobiles, and business inventory, the taking of which is commonly known as seizure. Annual reporting of seizures is covered by TIGTA in a separate review.

<sup>12</sup> See Appendix VI for a list of five previous audit reports related to this review.





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Previous TIGTA audit reports have recognized that the IRS has improved controls over the issuance of systemically generated levies, primarily due to the development of systemic controls in both the ACS and the ICS. In prior years, we determined that ACS and ICS systemic controls were effective. However, in Fiscal Year 2013, we reported that a required new notice of intent to levy was not sent to taxpayers when additional assessments were included on ICS systemic levies. The IRS agreed with our report and scheduled a programming fix for ICS systemic levies, but the effective date was not until January 2015. Therefore, TIGTA tested controls for taxpayer notifications on additional assessments more thoroughly in the Fiscal Year 2014 review by identifying and testing samples of taxpayer cases for which additional assessments were included in levies issued by both the ACS and the ICS. Results showed the same problems were occurring in ACS manual and systemic levies. IRS management agreed and stated that they had completed an ACS programming fix to correct the problem.

However, our Fiscal Year 2015 review identified the same problems occurring in ACS manual and systemic levies that were due to different types of cases and situations that needed further programming fixes. We continued testing both ACS and ICS controls for additional assessments included in levies in this review to ensure that the January 2015 ICS programming fix and various ACS programming fixes were working.

This review was performed with information obtained from the Small Business/Self-Employed Division National Headquarters Collection function office in New Carrollton, Maryland, during the period October 2015 through May 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.



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*Results of Review*

**Levies Issued by the Automated Collection System Function  
Complied With Notification Requirements, Except in Cases With  
Additional Assessments**

Our review of systemically generated and manually issued levies in the ACS function showed that taxpayers' rights were protected in cases for which additional assessments were not included in the levy.<sup>13</sup> In these cases, controls are in place to ensure that the IRS gives taxpayers notice of their CDP rights at least 30 calendar days prior to the issuance of the levies.

The first step in the collection process involves mailing taxpayers a series of notices asking for payment of the delinquent taxes. If taxpayers do not comply, the majority of the accounts are forwarded to an ACS Call Center where collection representatives speak with taxpayers by telephone to resolve their accounts. If the delinquent accounts cannot be resolved, these representatives have the authority to issue levies.<sup>14</sup>

Nearly all levies issued by collection representatives are generated through the ACS, which contains a control that compares the date that the taxpayer was notified of the pending levy with the date requested to actually issue the levy. If there are fewer than 30 calendar days between the dates, the ACS will not generate a levy. This control is designed to ensure that taxpayers have been notified of their CDP rights at least 30 calendar days prior to the issuance of any systemically generated levies.

Although the ACS primarily issues levies systemically, collection representatives may also request the issuance of manual levies by the ACS or by actually typing the notice of levy.<sup>15</sup> Manual levies require the same advance notification to the taxpayer as systemic levies.

Tests of statistical samples of 15 taxpayers with systemically generated levies and 15 taxpayers with manual levies issued through the ACS between October 1, 2014, and September 30, 2015, showed that all 30 taxpayers, and their authorized representatives, were timely notified of their

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<sup>13</sup> A taxpayer could have more than one levy. Throughout this audit, we reviewed all levies issued during the audit period for each sampled taxpayer.

<sup>14</sup> Internal Revenue Manual 5.19.4.2 (Aug. 4, 2014).

<sup>15</sup> An example of when a manually typed levy may be requested is for levies on Individual Retirement Arrangements.



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CDP rights.<sup>16</sup> In addition, we did not identify any taxpayers in our ACS systemic or manual levy sample who requested CDP hearings for intent to levy prior to levy issuance.

**Taxpayers were not always notified when additional assessments were included in manual and systemic levies issued through the ACS**

TIGTA selected statistical samples of an additional 60 taxpayers for whom additional assessments were included in both systemically generated (30 taxpayers) and manual (30 taxpayers) ACS levies.<sup>17</sup> Analysis showed that for five (17 percent) taxpayers with systemic and six (20 percent) taxpayers with manual ACS levies, the IRS did not issue a new notice of intent to levy for the additional assessments prior to the levies being issued. As a result, the taxpayers' rights were potentially violated.

IRS management agreed that these 11 taxpayers should have been issued a new notice of intent to levy and that the taxpayers' rights were potentially violated. We did not identify any levy payments on these accounts that needed corrective action by IRS management. However, management advised us that they will identify any levy payments received on other additional assessments included in levies and take corrective actions as needed.

In our FY 2014 report, IRS management stated that a systemic control was put in place in January 2013 to stop both manual and systemic levies from being issued on tax periods with additional assessments when a new notice of levy had not been sent. However, testing during our Fiscal Year 2014 review identified some programming problems. IRS management advised us that they had isolated and corrected the problems. However, we found exception cases in our Fiscal Year 2015 review. Management determined that the problem was still happening on certain tax periods arriving into ACS inventory. Management told us that ACS analysts currently monitor the arriving ACS inventory on a weekly basis to identify the tax periods needing a new CDP notice, and analysts would continue these weekly inventory checks until there was confidence that programming changes work on all case types, all the time. However, this year's review determined that the same problem is still occurring. IRS management informed us that they believe they have now isolated the problem and developed a programming solution. A programming work request was created in September 2015 with implementation scheduled for January 2017.

Based on the results of our review from a population of 6,330 taxpayer cases with additional assessments potentially included in the manual levies, we estimate that 678 taxpayers had their

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<sup>16</sup> TIGTA identified 610,429 taxpayers with systemic levies and 113,541 taxpayers with manual levies issued through the ACS from October 1, 2014, through September 30, 2015. See Appendix I for details.

<sup>17</sup> TIGTA identified and tested subpopulations from the original ACS manual and systemic levy populations consisting of 6,330 and 31,846 taxpayers, respectively, with additional assessments that were potentially included in issued manual and systemic levies in the ACS from October 1, 2014, through September 30, 2015. We could not be certain that the additional assessment amount was included in the levy in these populations until we reviewed the actual levy information for each sample case. See Appendix I for details.



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rights potentially violated because they were not sent a new notice of intent to levy, as required. In addition, from a population of 31,846 taxpayer cases with additional assessments potentially included in systemic levies, we estimate that 3,462 taxpayers had their rights potentially violated because they were not sent a new notice of intent to levy, as required.<sup>18</sup>

### ***Recommendation***

**Recommendation 1:** The Director, Collection Inventory, Delivery and Selection, Small Business/Self-Employed Division, should monitor manual and systemic ACS levies with additional assessments until it is determined that all systemic programming fixes are working.

**Management's Response:** IRS management agreed with this recommendation. IRS management created a programming request in September 2015, which is scheduled for implementation in January 2017. Until the programming is completed, IRS management will monitor ACS accounts that receive additional assessments to ensure the Notice of Intent to Levy is issued to the taxpayers.

### **Levies Issued by Field Collection Complied With Notification Requirements, Except in Cases With Additional Assessments**

Our review of systemically generated and manually prepared levies by Field Collection showed that taxpayers' rights were protected in cases for which additional assessments were not included in the levies. The IRS gave taxpayers notice of their CDP rights at least 30 calendar days prior to the issuance of the levies in the majority of these taxpayer cases.

Sometimes notices do not successfully resolve delinquent accounts, and cases have to be assigned to ROs in Field Collection offices for face-to-face contact with the taxpayers. Cases assigned to ROs are controlled on the ICS. ROs use the ICS to record collection activity on the delinquent cases and to generate enforcement actions such as levies.

The IRS established an automated control in the ICS similar to the control in the ACS that prevents systemic levies from being issued unless taxpayers have been provided notice of their CDP rights at least 30 calendar days prior to the issuance of the levies. If fewer than 30 calendar days have elapsed since the notice of intent to levy date, the ICS will not generate a levy.

ROs most commonly issue systemic levies through the ICS. However, they are also authorized to issue manual levies on any case as needed. Managerial review or approval is generally not required when ROs issue manual levies.

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<sup>18</sup> The point estimate projection is based on a two-sided 95 percent confidence interval. We are 95 percent confident that the point estimate is between 163 and 1,193 for manual levies, and we are 95 percent confident that the point estimate is between 567 and 6,356 for systemic levies. See Appendix IV for more details on how the projections were calculated.



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Tests of a statistical sample of 30 taxpayers with manually prepared and 15 taxpayers with systemically generated levies through the ICS between October 1, 2014, and September 30, 2015, showed that all 45 taxpayers, and their authorized representatives, were timely notified of their CDP rights.<sup>19</sup> In addition, we did not identify any taxpayers in our ICS systemic or manual levy sample who requested CDP hearings for intent to levy prior to levy issuance.

Generally, only one notice of intent to levy is required per tax period. However, a new notice is required when an additional assessment occurs on a tax period after the original notice of intent to levy has been sent to the taxpayer and the additional assessment amount will be included in the levy. For the same sample of 45 taxpayers, we identified three taxpayers with additional assessments included in manual levies for which a new notice of intent to levy was not sent to the taxpayers prior to levy issuance, as required. These three taxpayers were originally advised of their CDP rights on these tax periods prior to the additional assessments. IRS management advised us that the ROs did not follow Internal Revenue Manual procedures when issuing the manual levies.

The IRS agreed that all three taxpayers should have been issued a notice of intent to levy and that the taxpayers' rights were potentially violated. IRS management subsequently took corrective actions.

### **Taxpayers were not always notified when additional assessments were included in systemic levies issued through the ICS**

TIGTA selected a statistical sample of an additional 30 taxpayers for which additional assessments were included in ICS systemic levies.<sup>20</sup> Our analysis showed that for 12 (40 percent) of 30 taxpayers, the IRS did not issue a new notice of intent to levy for the additional assessments prior to the levies being issued. The IRS agreed that these 12 taxpayers should have been provided a new notice of intent to levy for the additional assessments prior to issuing the levies and that the taxpayers' rights were potentially violated.

We previously identified this issue and reported it in our Fiscal Year 2013 report. IRS management agreed to update the ICS programming for systemic levies to prevent levy issuance on tax periods for which an additional assessment had been made and a new notice of intent to

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<sup>19</sup> TIGTA identified 86,162 taxpayers with systemic levies issued through the ICS from October 1, 2014, through September 30, 2015. Since the ICS does not control manual levies prepared by ROs, it is difficult to reliably determine their exact number. However, TIGTA oversampled and reviewed case history comments from October 1, 2014, through September 30, 2015, for any reference to a manual levy in random selection order until we identified 30 cases that met the manual levy criteria. See Appendix I for details.

<sup>20</sup> TIGTA identified and tested a subpopulation from the ICS systemic levy population consisting of 9,046 taxpayers with additional assessments potentially included in systemically generated levies in the ICS from October 1, 2014, through September 30, 2015. We could not be certain that the additional assessment amount was included in the levy in this population until we reviewed the actual levy information for each sample case. Taxpayers with manual levies were not included in this population. See Appendix I for details.



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levy had not been sent to the taxpayer. Implementation of the programming change was completed in January 2015. However, this year's review determined that in eight of the 12 exception cases, the levies were issued after the programming change was implemented; therefore, the problem is still occurring. IRS management informed us that they identified several systemic issues needing additional programming actions. For example, in some cases the ICS identified the latest additional assessment on the module but failed to identify an earlier additional assessment. A programming fix was implemented February 16, 2016, to correct this problem. IRS management also requested a programming fix, to be implemented in June 2016, to ensure that ROs cannot generate a systemic levy without performing an assessment check on the module while working with the ICS in standalone mode.<sup>21</sup> Additionally, in some cases the RO incorrectly identified the levy as a Federal contractor levy, which does not require a notice of levy prior to levy issuance.<sup>22</sup> Management is planning to prepare an ICS alert to address the proper generation of Federal contractor levies, which will be sent to all ICS users.

IRS management informed us that corrective action was not needed for these 12 cases.<sup>23</sup> However, management informed us that they directed ROs assigned to three of the 12 cases to send a new notice of intent to levy to the taxpayer prior to taking further enforcement action. Management advised us that they will identify any levy payments received on other additional assessments included in levies and take corrective actions as needed.

Based on the results of our review from a population of 9,046 taxpayer cases with additional assessments potentially included in levies, we estimate that 1,696 taxpayers' rights were potentially violated because they were not sent a new notice of intent to levy, as required.<sup>24</sup>

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<sup>21</sup> ROs can work in ICS standalone mode by downloading taxpayer data and working with it offline in the field. Information to perform assessment checks is not always in the downloaded data.

<sup>22</sup> Internal Revenue Manual 5.19.9.3.1 (June 23, 2014).

<sup>23</sup> For example, payments were not received for some levies.

<sup>24</sup> The point estimate projection is based on a two-sided 95 percent confidence interval. We are 95 percent confident that the point estimate is between 827 and 2,565. See Appendix IV for more details on how the projection was calculated.





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## ***Recommendations***

**Recommendation 2:** The Director, Field Collection, Small Business/Self-Employed Division, should provide clarification and reinforcement of the requirements for levies with additional assessments to Field Collection employees and provide training to all ROs, including the topic of manual levies and taxpayer rights.

**Management's Response:** IRS management agreed with this recommendation. Specifically, management will provide clarification and reinforcement of the requirements for levies with additional assessments through technical communication updates to Field Collection employees. IRS management will also develop mandatory training for all revenue officers, which will include the topic of manual levies and taxpayer rights.

**Recommendation 3:** The Director, Collection Policy, Small Business/Self-Employed Division, should monitor ICS systemic levies with additional assessments until it is determined that all systemic programming fixes are working.

**Management's Response:** IRS management agreed with this recommendation, and will test ICS programming fixes for levies with additional assessments to determine if they have resolved the issues identified in this audit.

## **No Enforcement Actions Were Taken When Taxpayers Appealed Their Notice of Intent to Levy**

Taxpayers have the right to request a CDP hearing, at which they can raise various issues with respect to the proposed levy (CDP rights).<sup>25</sup> When taxpayers exercise these rights, the IRS must suspend all collection action during the 30 calendar days prior to the levy as well as throughout the entire period that the hearing (including any appeals from the hearing) is pending.<sup>26</sup>

Tests of a random sample of 30 open notice of intent to levy appeal cases as of October 2015 showed that the IRS suspended or did not take any collection action that involved the same tax period as the notice of intent to levy under appeal, as required by I.R.C. § 6330(e).

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<sup>25</sup> I.R.C. § 6330(c) provides that taxpayers can raise “any relevant issue relating to the unpaid tax or the proposed levy including (i) appropriate spousal defenses; (ii) challenges to the appropriateness of collection actions; and (iii) offers of collection alternatives which may include the posting of a bond, substitution of other assets, an installment agreement, or an offer-in-compromise.”

<sup>26</sup> I.R.C. § 6330(e).



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## **Appendix I**

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

Our overall objective was to determine whether the IRS has complied with the IRS Restructuring and Reform Act of 1998 requirements to notify taxpayers and their authorized representatives of the right to a Collection Due Process hearing prior to issuing levies and to suspend levy action during the time frames required pursuant to I.R.C. § 6330.

We conducted the following audit tests to accomplish the overall objective:

- I. Determined whether manual levies<sup>1</sup> issued by both ROs and ACS personnel complied with legal guidelines for notification of taxpayers prior to levy issuance.
  - A. Identified a population of taxpayers with potential manual ICS levies by querying the narrative history text field of the ICS open inventory in the Data Center Warehouse (DCW) database files to identify any references to manual levies issued between October 1, 2014, and September 30, 2015.<sup>2</sup>
    1. Selected a statistical sample of 120 taxpayer cases. We selected a statistical sample to ensure that each taxpayer case had an equal chance of being selected. We verified that cases met manual levy criteria in random selection order until we reached 30 cases for review.
    2. Reviewed all levies issued to the 30 taxpayers during our audit period for evidence that CDP rights were sent to the taxpayers (and their authorized representatives) at least 30 calendar days prior to levy issuance, including those tax periods with additional assessments included in the levies.
    3. Identified whether taxpayers in our sample cases had requested a CDP hearing after receiving their CDP rights for intent to levy and verified the CDP hearing was resolved prior to levy issuance.
  - B. Identified a population of 113,541 taxpayers with manual ACS levies by querying the employee number field in the DCW ACS open inventory database files to identify levies requested by ACS personnel, indicating manual levies, between October 1, 2014, and September 30, 2015.
    1. Selected a statistical sample of 30 taxpayer cases. We selected a statistical sample to ensure that each taxpayer case had an equal chance of being selected.

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

<sup>2</sup> The actual population size for ICS manual levies could not be determined because the IRS does not track them.





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*Fiscal Year 2016 Statutory Review of  
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2. Reviewed all levies issued to the first 15 sampled taxpayers during our audit period for evidence that CDP rights were sent to the taxpayers (and their authorized representatives) at least 30 calendar days prior to levy issuance, including those tax periods with additional assessments included in the levies. We stopped testing after the first 15 taxpayers because no errors were identified.
  3. Identified whether taxpayers in our sample cases had requested a CDP hearing after receiving their CDP rights for intent to levy and verified the CDP hearing was resolved prior to levy issuance.
- II. Determined whether automated controls for systemic ICS and ACS levies were adequate to comply with legal guidelines for notification to taxpayers prior to levy issuance.
- A. Identified a population of 86,162 ICS and 610,429 ACS taxpayers with systemic levies issued between October 1, 2014, and September 30, 2015, by querying the ICS and ACS databases of open cases maintained in the DCW.
1. Selected statistical samples of 60 taxpayer cases with ICS systemic levies for review.<sup>3</sup> We selected statistical samples to ensure that each taxpayer case had an equal chance of being selected. We verified cases met ICS systemic levy criteria in random selection order until we reached 30 cases for review.
    - a) Reviewed all levies issued to the first 15 sampled taxpayers with ICS systemic levies during our audit period for evidence that CDP rights were sent to the taxpayers (and their authorized representatives) at least 30 calendar days prior to levy issuance, including those tax periods with additional assessments included in the levies. We stopped testing after the first 15 taxpayers because no errors were identified.
    - b) Identified whether taxpayers in our sample cases had requested a CDP hearing after receiving their CDP rights for intent to levy and verified the CDP hearing was resolved prior to levy issuance.
  2. Selected statistical samples of 30 taxpayer cases with ACS systemic levies for review. We selected statistical samples to ensure that each taxpayer case had an equal chance of being selected.
    - a) Reviewed all levies issued to the first 15 sampled taxpayers with ACS systemic levies during our audit period for evidence that CDP rights were sent to the taxpayers (and their authorized representative) at least 30 calendar days prior to levy issuance, including those tax periods with additional assessments

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<sup>3</sup> We oversampled by 30 cases because ICS manual levies are also included in ICS systemic levies and there is no way to identify them without looking at each ICS history.



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included in the levies. We stopped testing after the first 15 taxpayers because no errors were identified.

- b) Identified whether taxpayers in our sample cases had requested a CDP hearing after receiving their CDP rights for intent to levy and verified the CDP hearing was resolved prior to levy.

III. Determined whether IRS controls ensured that taxpayers were properly notified prior to levy issuance when additional assessments were included in the levies.

- A. Identified three subpopulations (from the original levy populations in Steps I.B and II.A) of 26,606 taxpayers with ACS manual levies, 31,846 taxpayers with ACS systemic levies, and 9,046 taxpayers with ICS systemic levies in which additional assessments were potentially included in levies. We matched the Taxpayer Identification Number in the ICS systemic and the ACS systemic and manual levy populations (previously identified) to the Individual Master File and Business Master File databases in the DCW. Taxpayers identified had tax periods with: 1) an additional assessment posted prior to the levy issuance date and 2) an original notice of CDP rights sent to the taxpayer prior to the date of the additional assessment.
  - 1. Selected statistical samples of 60 ACS manual, 60 ACS systemic, and 60 ICS systemic taxpayers.<sup>4</sup> We selected statistical samples to ensure that each taxpayer case had an equal chance of being selected. We verified cases had additional assessments included in the levies in random selection order until we reached 30 ACS manual, 30 ACS systemic, and 30 ICS systemic cases for review.
  - 2. Reviewed all levies in the three samples in which additional assessments were included in the levies issued to the 30 ACS manual, 30 ACS systemic, and 30 ICS systemic taxpayers for evidence that CDP rights were sent to the taxpayers (and their authorized representatives) at least 30 calendar days prior to levy issuance.
    - a) Projected the error cases to the ACS manual population based on a 10.7 percent error rate, an 8.1 percent precision, and a two-sided 95 percent confidence interval. Our sample size in the projection was 56 taxpayers. This was due to our original sample of 30 taxpayers containing 26 cases for which additional assessments were not included in the levies.
    - b) Projected the error cases to the ACS systemic population based on a 10.9 percent error rate, a 9.1 percent precision, and a two-sided 95 percent confidence interval. Our sample size in the projection was 46 taxpayers. This was due to our original sample of 30 taxpayers containing 16 cases for which the additional assessments were not included in the levies.

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<sup>4</sup> We oversampled by 30 cases in each population because there is no way to know if additional assessments are included in levies without reviewing case histories or other levy module data.



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- c) Projected the error cases to the ICS systemic population based on an 18.8 percent error rate, a 9.6 percent precision, and a two-sided 95 percent confidence interval. Our sample size in the projection was 64 taxpayers. This was due to our original sample of 30 taxpayers containing 34 cases for which additional assessments were not included in the levies.
- IV. Determined whether the IRS controls ensured that collection actions are stopped for the required time period when a taxpayer requested a levy CDP hearing.
  - A. Identified a population of 14,384 taxpayers with open CDP levy hearings by querying the Appeals open inventory table in the DCW.
    - 1. Selected a statistical sample of 30 taxpayer cases with open CDP levy hearings. We selected a statistical sample to ensure that each taxpayer case had an equal chance of being selected.
    - 2. Reviewed Integrated Data Retrieval System transcripts for all tax modules included in the CDP levy hearing to identify whether any lien or levy actions were taken after the CDP levy hearing start date.
- V. Validated the manual and systemic levy data from the ACS and the ICS and the CDP levy hearing data from the Appeals table by relying on the DCW site procedures that ensure that data received from the IRS were valid. The DCW performs various procedures to ensure that it receives all the records in the ACS, the ICS, and other various IRS databases. In addition, we scanned the data in each population for reasonableness, and we verified the levy, additional assessment, and CDP levy hearing date for each sample case by comparing to Integrated Data Retrieval System transcripts. All the levies identified are in the appropriate period, and the data appeared to be logical. We are satisfied that the data are sufficient, complete, and relevant to the review.
- VI. Used the TIGTA contract statistician to assist with reviewing sampling plans and calculating projections.

**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 automated controls in place that prevent the issuance of levies prior to 30 calendar days before initiating any levy action and to prevent collection enforcement actions being taken on taxpayers who request CDP levy hearings. We evaluated these controls by reviewing samples of taxpayer levy and CDP levy hearings.



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**Appendix II**

*Major Contributors to This Report*

Matthew Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations)  
Carl Aley, Director  
Phyllis Heald London, Audit Manager  
Marcus Sloan, Lead Auditor  
Doris Cervantes, Senior Auditor  
Lynn Wofchuck, Senior 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  
Deputy Commissioner, Small Business/Self-Employed Division  
Director, Collection, Small Business/Self-Employed Division  
Director, Field Collection, Small Business/Self-Employed Division  
Director, Headquarters Collection, Small Business/Self-Employed  
Director, Collection Policy, Small Business/Self-Employed Division  
Director, Office of Audit Coordination



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## **Appendix IV**

### *Outcome Measure*

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

#### **Type and Value of Outcome Measure:**

1. Taxpayer Rights and Entitlements - Potential; 678 taxpayer accounts affected (see page 4).
2. Taxpayer Rights and Entitlements - Potential; 3,462 taxpayer accounts affected (see page 4).
3. Taxpayer Rights and Entitlements - Potential; three taxpayer accounts affected (see page 6).
4. Taxpayer Rights and Entitlements - Potential; 1,696 taxpayer accounts affected (see page 6).

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

##### **ACS<sup>1</sup>**

1. From a statistical sample of 30 taxpayers with additional assessments included in manual levies issued through the ACS between October 1, 2014, and September 30, 2015, we identified six cases for which an additional assessment was made on a tax period covered by the levy, and the IRS did not send the taxpayer a new final notification letter for the additional assessment before issuing the levy. We projected the six error cases to the total population of 6,330 taxpayers. Our sample size in the projection was 56 taxpayers. This was due to our original sample of 30 taxpayers containing 26 cases for which additional assessments were not included in the levies.<sup>2</sup> We estimate that 678 taxpayers had their rights potentially violated when they were not sent a new notice of intent to levy, as required (see page 4).<sup>3</sup>
2. From a statistical sample of 30 taxpayers with additional assessments included in systemic levies issued through the ACS between October 1, 2014, and September 30, 2015, we identified five cases for which an additional assessment was made on a tax period covered by the levy, and the IRS did not send the taxpayer a new final notification letter for the additional assessment before issuing the levy. We projected the five error cases to the total population of 31,846 taxpayers. Our sample size

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

<sup>2</sup> We oversampled by 30 cases in this population because there is no way to know if additional assessments are included in levies without reviewing case histories or other levy module data.

<sup>3</sup> We are 95 percent confident that the point estimate is between 163 and 1,193.



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in the projection was 46 taxpayers. This was due to our original sample of 30 taxpayers containing 16 cases for which the additional assessments were not included in the levies.<sup>4</sup> We estimate that 3,462 taxpayers had their rights potentially violated when they were not sent a new notice of intent to levy, as required (see page 4).<sup>5</sup>

### **ICS**

3. From a statistical sample of 30 taxpayers with manual levies issued through the ICS between October 1, 2014, and September 30, 2015, we identified three taxpayers for which an additional assessment was made on a tax period covered by a levy, and the IRS did not send the taxpayers a new final notification letter for the additional assessment before issuing the levies. This resulted in the three taxpayers' rights being potentially violated (see page 6).
4. From a statistical sample of 30 taxpayers with additional assessments included in systemic levies issued through the ICS between October 1, 2014, and September 30, 2015, we identified 12 cases for which an additional assessment was made on a tax period covered by the levy, and the IRS did not send the taxpayer a new final notification letter for the additional assessment before issuing the levy. We projected the 12 error cases to the total population of 9,046 taxpayers. Our sample size in the projection was 64 taxpayers. This was due to our original sample of 30 taxpayers containing 34 cases for which additional assessments were not included in the levies.<sup>6</sup> We estimate that 1,696 taxpayers had their rights potentially violated when they were not sent a new notice of intent to levy, as required (see page 6).<sup>7</sup>

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<sup>4</sup> We oversampled by 30 cases in this population because there is no way to know if additional assessments are included in levies without reviewing case histories or other levy module data.

<sup>5</sup> We are 95 percent confident that the point estimate is between 567 and 6,356.

<sup>6</sup> We oversampled by 30 cases in this population because there is no way to know if additional assessments are included in levies without reviewing case histories or other levy module data.

<sup>7</sup> We are 95 percent confident that the point estimate is between 827 and 2,565.





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**Appendix V**

*Example of a Form 668-A, Notice of Levy*

Form <b>668-A(c)(DO)</b> (January 2015)		Department of the Treasury - Internal Revenue Service		
<b>Notice of Levy</b>				
Date			Telephone number of IRS office	
Reply to			Name and address of taxpayer	
To			Identifying number(s)	
Special instructions for certain property levied				
<b>This isn't a bill for taxes you owe. This is a notice of levy we are using to collect money owed by the taxpayer named above.</b>				
Kind of Tax	Tax Period Ended	Unpaid Balance of Assessment	Statutory Additions	Total
This levy won't attach funds in IRAs, Self-Employed Individuals' Retirement Plans, or any other Retirement Plans in your possession or control, unless it is signed in the block to the right.			<b>Total Amount Due</b>	
We figured the interest and late payment penalty to _____				
<p>The Internal Revenue Code provides that there is a lien for the amount that is owed. Although we have given the notice and demand required by the Code, the amount owed hasn't been paid. This levy requires you to turn over to us this person's property and rights to property (such as money, credits, and bank deposits) that you have or which you are already obligated to pay this person. However, don't send us more than the "Total Amount Due."</p> <p><b>Money in banks, credit unions, savings and loans, and similar institutions described in section 408(n) of the Internal Revenue Code must be held for 21 calendar days from the day you receive this levy before you send us the money. Include any interest the person earns during the 21 days. Turn over any other money, property, credits, etc. that you have or are already obligated to pay the taxpayer, when you would have paid it if this person asked for payment.</b></p> <p>Make a reasonable effort to identify all property and rights to property belonging to this person. At a minimum, search your records using the taxpayer's name, address, and identifying numbers(s) shown on this form. Don't offset money this person owes you without contacting us at the telephone number shown above for instructions. You may not subtract a processing fee from the amount you send us.</p> <p><b>To respond to this levy —</b></p> <ol style="list-style-type: none"><li>1. Make your check or money order payable to <b>United States Treasury</b>.</li><li>2. Write the taxpayer's name, identifying number(s), kind of tax and tax period shown on this form, and "LEVY PROCEEDS" on your check or money order (not on a detachable stub.)</li><li>3. Complete the back of Part 3 of this form and mail it to us with your payment in the enclosed envelope.</li><li>4. Keep Part 1 of this form for your records and give the taxpayer Part 2 within 2 days.</li></ol> <p>If you don't owe any money to the taxpayer, please complete the back of Part 3, and mail that part back to us in the enclosed envelope.</p>				
Signature of Service Representative		Title		
Catalog Number 15704T		www.irs.gov		Form <b>668-A(c)(DO)</b> (Rev. 1-2015)
<b>Part 1 — For Addressee</b>				





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**Appendix VI**

*Previous Five Audit Reports  
Related to This Statutory Review*

TIGTA, Ref. No. 2011-30-036, *Fiscal Year 2011 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (Mar. 2011).

TIGTA, Ref. No. 2012-30-095, *Fiscal Year 2012 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (Aug. 2012).

TIGTA, Ref. No. 2013-30-092, *Fiscal Year 2013 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (Aug. 2013).

TIGTA, Ref. No. 2014-30-078, *Fiscal Year 2014 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (Sept. 2014).

TIGTA, Ref. No. 2015-30-058, *Fiscal Year 2015 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (June 2015).



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**Appendix VII**

*Glossary of Terms*

<b>Term</b>	<b>Definition</b>
<b>Automated Collection System</b>	A telephone contact system through which customer service representatives collect unpaid taxes and secure tax returns from delinquent taxpayers who have not complied with previous notices.
<b>Business Master File</b>	The IRS database that consists of Federal tax-related transactions and accounts for businesses. These include employment taxes, income taxes on businesses, and excise taxes.
<b>Collection Due Process Rights</b>	I.R.C. § 6330 gives the taxpayer the right to appeal before the proposed levy action and after a jeopardy levy, a disqualified employment tax levy, a levy on a Federal contractor, and a levy on State tax refunds. The IRS notifies taxpayers of their CDP rights by issuing a notice explaining their right to request a hearing.
<b>Customer Service Representatives</b>	The duties of a customer service representative are varied. Many hours are spent on the telephone, working paper cases, or assisting taxpayers at a Taxpayer Assistance Center. Paper cases include both incoming taxpayer correspondence and internally generated cases.
<b>Data Center Warehouse</b>	An online database maintained by TIGTA. The DCW pulls data from IRS system resources, such as IRS Collection and Examination files, for TIGTA access.
<b>Field Collection</b>	The unit in the Area Offices consisting of ROs who handle personal contacts with taxpayers to collect delinquent accounts or secure unfiled returns.



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Term	Definition
<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>Individual Master File</b>	The IRS database that maintains transactions or records of individual tax accounts.
<b>Integrated Collection System</b>	An information management system designed to improve revenue collections by providing ROs 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>	An IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.
<b>Internal Revenue Code</b>	Federal tax law begins with the I.R.C., enacted by Congress in Title 26 of the United States Code.
<b>Internal Revenue Manual</b>	The primary, official source of IRS "instructions to staff" relating to the organization, administration, and operation of the IRS. It details the policies, delegations of authorities, procedures, instructions, and guidelines for daily operations for all divisions and functions of the IRS.
<b>Manual Levy</b>	A manual ICS levy is a paper levy form that is manually prepared and issued by an RO. A manual ACS levy is initiated through the ACS by a customer service representative, resulting in levy preparation and issuance by the system.
<b>Module</b>	Refers to one specific tax return filed by the taxpayer for one specific tax period (year or quarter) and type of tax.



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Term	Definition
<b>Revenue Officer</b>	Conducts face-to-face interviews with taxpayers (or their representatives) at the taxpayer's place of business or residence or, on occasion, at an IRS office. These interviews may be unscheduled (cold calls) or scheduled, depending upon the case. This is done as part of the investigative process of collecting delinquent taxes and securing delinquent tax returns.
<b>Systemic Levy</b>	ACS systemic levies are initiated, prepared, and issued completely by the ACS with no manual intervention necessary. ICS systemic levies are initiated by ROs resulting in levy preparation and issuance by the system.
<b>Tax Period</b>	The period of time for which a return is filed. The IRS uses a four-digit code to indicate the end of the tax period for a given return. (The first two digits represent the year, and the second two digits represent the month.)



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**Appendix VIII**

*Management's Response to the Draft Report*



COMMISSIONER  
SMALL BUSINESS/SELF-EMPLOYED DIVISION

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

JUL 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 Legal Guidelines When Issuing Levies (Audit  
#201630003)

Thank you for the opportunity to review the above subject draft report. We appreciate your recognition that the IRS is protecting taxpayers' rights when issuing systemic and manual levies in cases for which additional assessments were not included in the levy. Your analysis determined that our controls ensured that taxpayers were given notice of their Collection Due Process (CDP) rights at least 30 calendar days prior to the issuance of levies. For levy appeal cases, you also found that IRS correctly suspended or did not take any collection action that involved the same tax period as the Notice of Intent to Levy under appeal.

You identified instances in which systemic levies issued by Field Collection included additional assessments for which a new notice of intent to levy had not been issued. We implemented two programming fixes to correct this issue, one of which was completed in February 2016, and the other in June 2016. You also identified instances in which systemic and manual levies issued by the Automated Collection System (ACS) included additional assessments for which a new notice of intent to levy had not been issued. A programming solution for this problem was submitted in September 2015 and is scheduled for implementation in January 2017. Until the programming is completed, we will monitor ACS accounts to ensure the required notice is issued giving taxpayers CDP rights prior to issuing a manual or systemic levy.

We agree with your recommendations and appreciate your acknowledgement of the efforts we have already initiated to protect taxpayer rights when the IRS issues systemic and manual levies. 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 Inventory, Delivery and Selection, Small Business/Self-Employed Division, should monitor manual and systemic ACS levies with additional assessments until it is determined that all systemic programming fixes are working.

**CORRECTIVE ACTION:**

We agree with this recommendation. We created a programming request in September 2015 which is on schedule for implementation in January 2017. Until the programming is completed, our Collection Inventory Delivery and Selection unit will monitor ACS accounts that receive additional assessments, to ensure that LT 11, *Final Notice -- Notice of Intent to Levy and Your Notice of a Right to a Hearing*, is issued to give taxpayers CDP rights prior to issuing a manual or systemic levy.

**IMPLEMENTATION DATE:**

February 15, 2017

**RESPONSIBLE OFFICIAL(S):**

Director, Collection Inventory Delivery and Selection, 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.

**RECOMMENDATION 2:** The Director, Field Collection, Small Business/Self-Employed Division, should provide clarification and reinforcement of the requirements for levies with additional assessments to Field Collection employees and provide training to all ROs, including the topic of manual levies and taxpayer rights.

**CORRECTIVE ACTION:**

We agree with this recommendation. We will provide clarification and reinforcement of the requirements for levies with additional assessments through technical communication updates to Field Collection employees. We will also develop mandatory training for all revenue officers which includes the topic of manual levies and taxpayer rights.

**IMPLEMENTATION DATE:**

April 15, 2017

**RESPONSIBLE OFFICIAL(S):**

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





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**CORRECTIVE ACTION MONITORING PLAN:**

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

**RECOMMENDATION 3:** The Director, Collection Policy, Small Business/Self-Employed Division, should monitor Integrated Collection System (ICS) systemic levies with additional assessments until it is determined that all systemic programming fixes are working.

**CORRECTIVE ACTION:**

We agree to test ICS systemic programming fixes for levies with additional assessments to determine if programming has resolved issues identified in this audit.

**IMPLEMENTATION DATE:**

May 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.