

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



Fiscal Year 2020 Statutory Review of Compliance With Legal Guidelines When Issuing Levies

September 9, 2020

Reference Number: 2020-30-065

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Redaction Legend:

1 = Tax Return/Return Information

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HIGHLIGHTS: Fiscal Year 2020 Statutory Review of Compliance With Legal Guidelines When Issuing Levies



Final Audit Report issued on September 9, 2020
Reference Number 2020-30-065

Why TIGTA Did This 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 and their authorized representatives of the right to a Collection Due Process (CDP) hearing prior to issuing levies and to suspend levy action during the time frames required pursuant to Internal Revenue Code Section 6330.

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 CDP hearing prior to the first levy on a delinquent account.

What TIGTA Found

TIGTA reviewed the levies issued to taxpayers by the different functions within the IRS Collection organization during the period October 1, 2018, through September 30, 2019. In our review of levies issued by the Automated Collection System (ACS), TIGTA found that, of the 194,498 taxpayers that received levies, 145 taxpayers were not timely notified of their CDP rights. When an additional amount is assessed to a delinquent account of a taxpayer, an additional CDP notice must be issued to the taxpayer. However, of the 84,513 taxpayers that received additional assessments prior to the ACS levy, TIGTA identified four taxpayers that did not receive a new CDP notice after the additional tax assessment was made. The law also requires that collection action must be suspended during the CDP hearing process. However, of the 194,498 taxpayers that received ACS levies, TIGTA identified three taxpayers with levies issued while a CDP hearing was pending.

Revenue officers use the Integrated Collection System (ICS) to issue levies. From the population of 58,546 taxpayers that received levies issued by revenue officers through the ICS, TIGTA identified:

- 1) 25 taxpayers that were not notified of their CDP rights;
- 2) 24 taxpayers that were not timely notified of their CDP rights; and
- 3) 25 taxpayers that were not notified of their CDP rights when the CDP notice transaction code was incorrectly reversed. Additionally, out of the 16,958 taxpayers that received additional tax assessments prior to the levy, TIGTA identified 51 taxpayers that did not receive a new CDP notice after the additional tax assessment was made. TIGTA also identified 40 taxpayers out of 58,546 that received ICS levies while a CDP hearing was pending in violation of the law.

What TIGTA Recommended

TIGTA made seven recommendations to help improve the proper issuance of CDP notices in the ICS. They include recommendations related to the proper issuance of a timely CDP notice, as well as a recommendation to help prevent the improper issuance of levies while a CDP hearing is pending and to ensure that revenue officers properly issue manual levies.

In response to the report, the IRS agreed with six of the seven recommended programming changes and corrective actions. For one recommendation, the IRS disagreed with the recommendation but will take an alternative corrective action. TIGTA agrees with the proposed corrective action. The IRS plans to monitor the corrective actions as part of its internal management system of controls.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

September 9, 2020

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2020 Statutory Review of Compliance
With Legal Guidelines When Issuing Levies (Audit # 202030016)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) complied with the IRS Restructuring and Reform Act of 1998 requirements and IRS policy 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 Internal Revenue Code Section 6330. This review is part of our Fiscal Year 2020 Annual Audit Plan and addresses the major management and performance challenge of *Protecting Taxpayer Rights*.

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

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



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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.¹ This action is commonly referred to as a "levy" (see Appendix III for an example of Form 668-A, *Notice of Levy*).² The Internal Revenue Code (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.³

The IRS Restructuring and Reform Act of 1998 expanded upon this notice requirement by creating I.R.C. Section (§) 6330, 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).⁴ The taxpayer is required to be notified again prior to levy whenever any new (additional) tax assessments are applied to the account. The law provides an exception to the 30-calendar-day notice requirement for certain situations such as levies on a State tax refund, levies on Federal contractors, disqualified employment tax levies, and jeopardy levies.⁵ These taxpayers must still be given their CDP rights within a reasonable period of time after the levy.

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 within required time frames, generally 30 calendar days prior to levy issuance.

The provisions require that all levy actions be suspended during the 30 calendar days prior to the levy for those periods that are the subject of the requested hearing, as well as throughout the entire period that a hearing (including any appeals from the hearing) is pending.⁶ CDP rights include the right to a fair and impartial hearing before the Office of Appeals.⁷ The notice required by I.R.C. § 6330 must include the amount of unpaid tax, the right to request a CDP

¹ Internal Revenue Code (I.R.C.) Section (§§) 6331(a) and (b).

² I.R.C. § 6331(a) and (b).

³ See Appendix VI for a glossary of terms. I.R.C. § 6331(d).

⁴ Pub. L. No. 105-206, 112 Stat. 685; I.R.C. § 6330(a); I.R.C. § 6330(b); and I.R.C. § 6330(c) provide 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."

⁵ I.R.C. § 6330(f). Pursuant to I.R.C. § 6330(h)(1), a disqualified employment tax levy "is any levy in connection with the collection of employment taxes for any taxable period if the person subject to the levy (or any predecessor thereof) requested a hearing under this section with respect to unpaid employment taxes arising in the most recent 2-year period before the beginning of the taxable period with respect to which the levy is served."

⁶ I.R.C. §§ 6330(a) and (e).

⁷ I.R.C. § 6330(b).



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hearing, and the proposed action the IRS intends to take, along with other important information on topics such as collection alternatives.⁸

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. § 6330.⁹ 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, generally required at least 30 calendar days before taking levy action, and if the taxpayer requests a CDP hearing, whether levy action is suspended as required under I.R.C. § 6330. This is the twenty-second 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.¹⁰

The first step in the collection process involves mailing taxpayers a series of notices asking for payment of the delinquent taxes. The final notice is the CDP notice (which is issued with the first notice of intent to levy on a delinquent tax module), and after the conclusion of the CDP process (including appeal rights and judicial review, if those rights are exercised), the IRS may take collection actions to collect delinquent taxes. The IRS may collect monetary assets from the taxpayer by issuing levies through the Automated Collection System (ACS), Field Collection, or one of the IRS's Automated Levy Programs (ALP), or the IRS can seize both personal and real property.¹¹ The following is a brief description of the functions and processes through which levies on financial assets occur.

- The ACS, through which collection representatives interact with delinquent taxpayers by telephone to collect unpaid taxes and secure tax returns. The three types of levy issuance in the ACS function are:
 - Systemic levies – generated by the ACS Systemic Levy Program.
 - Paper levies – issued by collection representatives through the ACS.
 - Manual levies – issued by collection representatives after manually typing the levy.
- Field Collection, through which revenue officers contact taxpayers with delinquent accounts in person and over the phone. Delinquent cases assigned to revenue officers in the field offices are controlled and monitored on the Integrated Collection System (ICS). The two types of levy issuance in the Field Collection function are:
 - Systemic levies – issued by revenue officers through the ICS.
 - Manual levies – issued by revenue officers after manually typing the levy.

⁸ I.R.C. § 6330(a)(3).

⁹ I.R.C. § 7803(d)(1)(A)(iv).

¹⁰ 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.

¹¹ Levies issued by the ALPs, such as the Federal Payment Levy Program and the State Income Tax Levy Program, are transmitted electronically and proceeds are typically received electronically.



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- The ALPs, through which levies are issued electronically without employee action and proceeds are received electronically. The four ALPs are:
 - Federal Payment Levy Program – attaches to Federal disbursements due an individual or business, such as Federal wages, retirement, vendor/contractor payments, and Social Security. It also issues Federal contractor levies and disqualified employment tax levies, which have different legal requirements than the other Federal Payment Levy Program levies.¹²
 - State Income Tax Levy Program – attaches to participating State income tax refunds.
 - Municipal Tax Levy Program – attaches to participating local municipal income tax refunds.
 - Alaska Permanent Fund Dividend Levy Program – attaches to the Permanent Fund Dividend distributed by Alaska.

Controls in the ACS, the ICS, and the ALP systems have been designed to help ensure that taxpayers are notified of their CDP rights at least 30 calendar days prior to the issuance of ACS systemic and paper levies, ICS systemic levies, and ALP levies (when required).¹³ However, there is a higher risk of not complying with I.R.C. § 6330 and its related regulations and procedures when ACS collection representatives and revenue officers issue manual levies. This is because employees request these levies outside of the systemic controls that exist on the ACS and the ICS. In particular, most ICS manual levies do not require manager approval. All ACS manual levies require manager or lead review, which helps to mitigate the risk.

The IRS has never tracked complete information about the issuance of ICS manual levies. In a prior review, IRS management informed us that they track the total number of manual levies issued by revenue officers.¹⁴ However, the IRS does not collect any details about these levies, such as the taxpayer's identification number, the tax year, or the date of the levy; therefore, neither TIGTA nor IRS management can identify the exact population of manual levies issued by revenue officers during our review period. Unlike manual levies issued by revenue officers, the IRS does track manual levies issued by ACS collection representatives; therefore, we obtained and reviewed the population.

TIGTA audit reports issued since Fiscal Year (FY) 2005 generally reported that revenue officers properly notified taxpayers of their right to a hearing when issuing manual levies. However, in

¹² The legal requirements can be found in I.R.C. § 6330(f). Per Internal Revenue Manual 5.1.9.3.14 (Nov. 12, 2014), disqualified employment tax levies are levies served to collect an employment tax liability for taxpayers that previously requested a CDP hearing involving unpaid employment tax.

¹³ Per I.R.C. § 6330(f), the IRS does not have to issue a CDP notice prior to levy issuance for levies on State income tax refunds, Federal contractors, and disqualified employment tax but is required to issue a CDP notice within a reasonable amount of time after the levy if that levy is the first levy made with respect to a particular tax and tax period.

¹⁴ TIGTA, Ref. No. 2019-30-070, *Fiscal Year 2019 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* p. 3 (Sept. 2019).



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our FYs 2018 and 2019 reports, we reported six cases in which taxpayers' rights were violated.¹⁵ IRS management stated that these violations were due to employee error and that employees received training related to ICS manual levy procedures in the first quarter of FY 2018.¹⁶ However, these errors continue to occur, so TIGTA continues to search ICS history files for indications of manual levies and tests a sample each year.

Additionally, in our FY 2019 report, we reviewed the IRS's ALPs in entirety for the first time. This review resulted in the identification of 557 cases in which taxpayers' rights were violated due to CDP notice issues, 484 cases in which taxpayers' rights were violated due to CDP hearing issues, and four recommendations. Two of these recommendations were implemented in May and June 2019; therefore, the implementation of these recommendations would not affect many of the levies issued during FY 2019, the scope of this review. The other two recommendations are still outstanding. To provide the IRS time to implement the recommendations, we will review the ALPs again in the FY 2021 levy audit, which considers levies issued during FY 2020.

Finally, on March 25, 2020, the IRS announced the People First Initiative, in response to the COVID-19 virus, in order to ease the burden on people facing tax issues. This initiative announced a series of steps to assist taxpayers by providing relief on a variety of issues ranging from easing payment guidelines to postponing compliance actions, such as levies. Beginning April 1, 2020, and continuing through July 15, 2020, the IRS suspended issuance of automated and systemic levies.

Results of Review

Levies Issued by the Automated Collection System Did Not Always Comply With Legal Requirements

Our review of ACS levies showed that taxpayers' rights were not always protected for both systemic and paper 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 or are not able to resolve their delinquent accounts through the notice process, the majority of the accounts advance to the ACS, where collection representatives speak with taxpayers by telephone and process inventory to resolve their accounts. If the delinquent accounts cannot be resolved, these representatives have the authority to issue levies.

Systemic levies are generated by the ACS Systemic Levy Program; paper levies are issued by collection representatives through the ACS. The ACS contains a control that compares the date the taxpayer was notified of the pending levy with the requested date to issue the levy. If there are fewer than 30 calendar days between the dates, the ACS will not generate a levy. This

¹⁵ TIGTA, Ref. No. 2019-30-070, *Fiscal Year 2019 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* p. 24 (Sept. 2019) and TIGTA, Ref. No. 2018-30-068, *Fiscal Year 2018 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* p. 23 (Sept. 2018).

¹⁶ See Appendix IV for a list of five previous audit reports related to this review.



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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 ACS-generated levies; however, our review found some cases in which ACS levies were issued without the proper notices issued.

Additionally, ACS levies may not be issued while a CDP hearing is pending for those periods that are the subject of the requested hearing. Systemic controls are in place to prevent this from occurring; however, our review found some cases in which ACS levies were issued while a CDP hearing was pending.

ACS levies can also be issued manually, when collection representatives manually type the levy. ACS employees document these levies in the case history. We searched the ACS system and did not identify any ACS manual levies issued in FY 2019. *****1*****

*****1*****

*****1*****. It is not unusual to have so few ACS manual levies. In FY 2018, the IRS did not issue any ACS manual levies due to ACS resources focusing on handling incoming calls. For FY 2019, IRS management stated that so few ACS manual levies were issued because levies are increasingly able to be processed systemically. The value of issuing a levy manually does not often exceed the expenditure of resources because these levies require employees to manually type the levy and obtain manager approval.

Taxpayers were not always notified of their CDP rights when the IRS issued ACS levies

Our analysis of the population of 194,498 taxpayers with ACS levies issued during FY 2019 identified 145 taxpayers whose rights were violated. The IRS received levy proceeds from these taxpayers totaling \$30,269. Specifically, we identified:

- 16 taxpayers that were not timely notified of their CDP rights prior to the levy. The IRS received levy proceeds from these taxpayers totaling \$19,979.
- 129 taxpayers for which the CDP notice transaction posted on the taxpayers' accounts showing the letter was issued but was subsequently reversed, and the letter was not later reissued prior to the levy. The IRS received levy proceeds from these taxpayers totaling \$10,290.

IRS management agreed that these taxpayers' rights were violated. For the taxpayers that were not timely notified, IRS management explained that this occurred due to two reasons.

For the majority of taxpayers whose notices were reversed and not reissued, IRS management explained that these were caused by an isolated event in which an incorrect batch of taxpayer accounts were associated with a new letter pilot program. Management corrected this error and reversed the notice transactions; however, the date in the final notice field remained in the ACS system, which allowed the taxpayers to be levied. To address this issue, IRS management is seeking corrective action to address this programming flaw, which will block levies in which the final notice is reversed or disqualified and which is expected to be completed July 2020. IRS management is attempting to contact the taxpayers for which levy proceeds were secured to receive their concurrence to keep the funds or alternatively initiate manual refunds.

The remainder of these violations are attributable to employee error. These were disqualified employment tax levies that were issued without a prior final notice, for which employees failed



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to follow the procedures in the Internal Revenue Manual (IRM) to issue a post-levy notice as required.¹⁷ To address this issue, IRS management is planning programming changes that will block issuance of disqualified employment tax levies from ACS issuance unless a fourth notice has been issued. Although disqualified employment tax levies do not require a prior final notice by statute, a fourth notice is required in its absence. This programming will ensure that all taxpayers receive proper notice regardless of the type of levy issued.¹⁸ This programming is expected to be implemented in January 2021, after which time taxpayer rights violations such as these should no longer occur. Additionally, as part of the IRS's corrective action to address recommendations from last year's review, IRS management implemented a manual monitoring process in May 2020 for disqualified employment tax levy cases so that future errors can be addressed before they affect the taxpayer.¹⁹

Taxpayers were not always notified when additional tax assessments were included in ACS levies

Additional tax assessments can occur in certain situations, such as when the IRS discovers a math error on a taxpayer's return or an audit of the taxpayer's return produces a new tax assessment. In these cases, a new CDP notice is required to be issued to the taxpayer prior to levy.

Our analysis of the population of 194,498 taxpayers with ACS levies issued during FY 2019 identified 84,513 taxpayers with ACS levies in which an additional tax assessment posted prior to the taxpayer's FY 2019 levy. From these, we identified four taxpayers for which the IRS did not issue a new notice of intent to levy for the additional tax assessments prior to the levies being issued. As a result, rights were potentially violated for these four taxpayers. The IRS received levy proceeds from these taxpayers totaling \$32,253.

IRS management agreed that these four taxpayers should have been issued a new notice of intent to levy and that the taxpayers' rights were potentially violated. IRS management explained that these errors occurred due to two reasons:

1. Employees did not notice case indicators that showed an additional tax assessment was present or failed to check for additional tax assessments as required by the IRM.²⁰
2. A systemic error occurred transmitting the levy information to the ACS.

IRS management is attempting to contact the taxpayers for which levy proceeds were secured to receive their concurrence to keep the funds or alternatively initiate manual refunds.

In January 2013, IRS management implemented a systemic control intended to prevent ACS levies from being issued on tax periods with additional tax assessments when a new notice of levy had not been sent. However, testing during audits performed in FYs 2014 through 2017 continued to identify the same issue. IRS management determined what was causing the

¹⁷ IRM 5.19.4.3.1.1, *Disqualified Employment Tax Levy (DETL)* (Mar. 4, 2019).

¹⁸ Disqualified employment tax levies are required to have a post-levy notice within a reasonable period.

¹⁹ TIGTA, Ref. No. 2019-30-070, *Fiscal Year 2019 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* p. 11 (Sept. 2019).

²⁰ IRM 5.19.4.3.1(5), *Pre-Levy Requirements – E2 Processing* (Oct. 31, 2016).



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problem and implemented another programming fix in January 2018. When comparing the four cases with taxpayer rights violations we found in this review to the 783 cases we found in the FY 2018 review, it appears the programming fix has significantly improved the problem, and therefore, we will not be making a recommendation.

Some ACS levies were improperly issued while taxpayers had pending CDP hearings

Our analysis of the population of 194,498 taxpayers with ACS levies issued during FY 2019 identified three taxpayers with levies that were issued while a CDP hearing was pending. As a result, these three taxpayers' rights were violated.

IRS management stated that these violations were caused by a timing issue. Specifically, the levy was issued prior to the late input of the CDP hearing request transaction code. These levies were released, no levy proceeds were received from these taxpayers, and the cases were moved to Appeals. Additionally, as part of the IRS's corrective action to address a recommendation from last year's review, IRS management is analyzing the causes of delays between the time a CDP hearing is received at the campus and the time the CDP hearing transaction code is input into the Integrated Data Retrieval System and creating a plan to minimize those delays.²¹ Therefore, we will not be making a recommendation in this year's audit.

Levies Issued by Field Collection Did Not Always Comply With Legal Requirements

Sometimes notices do not successfully resolve delinquent accounts, and cases have to be assigned to revenue officers in Field Collection offices for face-to-face contact with the taxpayers. Cases assigned to revenue officers are controlled on the ICS. Revenue officers 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 CDP notice date, the ICS will not generate a levy. When the revenue officer requests a levy through the ICS, it is considered to be an ICS systemic levy. Revenue officers can also request a levy outside of the ICS, using a paper levy form, which is an ICS manual levy.

Our review of levies issued by revenue officers in Field Collection during FY 2019 showed that taxpayers' rights were not always protected for both systemically and manually issued levies.

²¹ TIGTA, Ref. No. 2019-30-070, *Fiscal Year 2019 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* p. 9 (Sept. 2019).



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Taxpayers were not always notified of their CDP rights when the IRS issued systemic Field Collection levies

We analyzed the population of 58,546 taxpayers with ICS systemic levies issued during FY 2019. Specifically, we identified:

- 25 taxpayers that were not notified of their CDP rights prior to levy issuance. The IRS received levy proceeds from these taxpayers totaling \$13,357. IRS management concurred with these cases and agreed that these taxpayers' rights were violated.
- 190 taxpayers that were potentially not timely notified of their CDP rights.
 - IRS management reviewed a random sample of 92 of these cases and concurred that, in 24 (26 percent) cases, taxpayers' rights were violated. We reviewed the IRS's responses and agreed. The IRS received levy proceeds from these 24 taxpayers totaling \$111,438. There were various reasons why the other 68 cases were not violations, such as the employee not coding the account as a disqualified employment tax levy, which does not require a CDP notice be issued until after the levy. Based on these results, from the population of 190 potential cases, we estimate that in 50 cases taxpayers' rights were potentially violated.²²
- 95 taxpayers that potentially did not receive the CDP notice because the CDP notice transaction posted to show the CDP notice was issued but was subsequently reversed, and the notice was not later reissued prior to the levy.
 - IRS management reviewed a random sample of 65 of these cases and concurred that in 25 (38 percent) cases taxpayers' rights were violated. We reviewed the IRS's responses and agreed. The IRS received levy proceeds from these 25 taxpayers totaling \$1,952. Again, there were various reasons why the other 40 cases were not violations, the most common reason being that the CDP notice was determined to have been issued after the first attempt at issuance was reversed. Based on these results, from the population of 95 potential cases, we estimate that in 37 cases taxpayers' rights were potentially violated.²³

IRS management stated that these taxpayer rights violations occurred for several reasons. For example, in:

- 28 cases, the ICS did not remove the final notice date from the system when the notice was reversed, which allowed the levy to be generated. IRS management stated that a programming fix expected to be implemented in January 2021 will remove the final notice date when the notice is reversed. Additionally, the ICS will not allow a reversal

²² When projecting the results of the statistical sample, we are 95 percent confident that the actual total amount is between 38 and 63 (where 38 and 63 represent the lower and upper range, respectively). See Appendix I for more details on how the projection was calculated.

²³ When projecting the results of the statistical sample, we are 95 percent confident that the actual total amount is between 30 and 43 (where 30 and 43 represent the lower and upper range, respectively). See Appendix I for more details on how the projection was calculated.



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and a notice transaction to post on the same date. To allow time for the programming fix to go into effect, we will not be making a new recommendation at this time.

- 24 cases, there was an erroneous identification of disqualified employment tax levies that bypassed the systemic levy block when no CDP notice had been issued. This problem was also reported in our FY 2019 report.²⁴ At that time, IRS management stated that a programming fix would be required to correct the issue. This enhancement is expected to be implemented in January 2021. In the interim, the Director, Field Collection Operations, issued an all-employee memo via e-mail on June 24, 2019, entitled *Disqualified Employment Tax Levy (DETL) and Federal Contractor (FEDCON) Levy*, with a reminder of the required processes and references to IRM guidance. IRS management has confirmed that the programming fix is still expected to be implemented in January 2021. To allow time for the programming fix to go into effect, we will not be making a new recommendation at this time.
- Nine cases, there was a systemic issue that, when employees generated a levy and identified it as a disqualified employment tax levy, the system did not process the levy properly, did not post in the case history, and did not send a post-levy notice. IRS management has requested a programming fix to resolve this issue, which is expected to be implemented September 2020.
- Six cases, there were either Federal contractor levies that did not receive a post-levy notice, as required, or levies that were erroneously identified as Federal contractor levies that bypassed the systemic levy block when no CDP notice has been issued. We identified this issue in a prior review, and a programming fix was implemented in January 2019. All of these levies were issued prior to the programming fix; therefore, we will not be making a new recommendation.
- Five cases, there were disqualified employment tax levies that did not receive a post-levy notice, as required.²⁵ IRS management stated that revenue officers are not following IRM procedures in these cases. IRS management stated that they issued an IRM 5.11.1 Procedural Update, dated December 2, 2019, regarding the issuance of the CDP letter to address this issue. Because the guidance was not issued until FY 2020, we will not be making a new recommendation at this time.
- *****1*****
*****1*****
*****1***** IRS management will submit a programming fix to address this issue.

²⁴ TIGTA, Ref. No. 2019-30-070, *Fiscal Year 2019 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* p. 13 (Sept. 2019).

²⁵ I.R.C. § 6330(f). Disqualified employment tax levies do not require a notice to be sent 30 days prior to the levy issuance. Instead, the taxpayer must be provided the notice within a reasonable period of time after the levy.



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- *****1*****
*****1****²⁶ IRS management will submit request to systemically identify jeopardy levies in ICS history.

Levies for Federal contractors and disqualified employment tax levies do not require a CDP notice until after the levy is issued. However, if the revenue officer codes a taxpayer account as a Federal contractor or the levy as a disqualified employment tax levy by mistake, the levy will be issued without the required CDP notice. The IRS updated the IRM in January 2018 to instruct employees on how to identify whether a taxpayer is a Federal contractor. In addition, the IRS implemented a programming fix to address improper identification of Federal contractors, requiring a Federal contractor indicator to be present on the case to generate a levy for a Federal contractor. This corrective action was implemented January 2, 2019. IRS management provided an e-mail alert distribution to all relevant managers to remind them to review the ICS Transmittal User Guide implemented on January 2, 2019, with their employees. IRS management is implementing a programming fix to address this issue for disqualified employment tax levies scheduled for January 2021.

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

In January 2015, IRS management made changes to ICS programming for systemic Field Collection levies intended to prevent levies from being issued on tax periods with additional tax assessments when a new CDP notice had not been sent. IRS management advised us that subsequent programming fixes were implemented in February 2016, June 2016, and January 2017 to correct these problems. However, our FY 2017 and FY 2018 reviews identified another problem related to ICS control for levies on Federal contractors and disqualified employment tax levies.

Our analysis of the population of 58,546 taxpayers with Field Collection levies issued during FY 2019 identified 16,958 taxpayers with Field Collection levies for which an additional tax assessment posted prior to a FY 2019 levy. From these, we identified 51 taxpayers for which the IRS did not issue a new CDP notice for the additional tax assessments prior to the FY 2019 levies being issued. The IRS received levy proceeds from these taxpayers totaling \$40,276. IRS management concurred with these cases and agreed that these taxpayers' rights were violated. IRS management stated that these taxpayer rights violations occurred for several reasons. For example, in:

- 15 cases, there were either Federal contractor levies that did not receive a post-levy CDP notice as required or levies that were erroneously identified as Federal contractor levies that bypassed the systemic levy block when no CDP notice has been issued, as discussed in the previous section.
- 12 cases, there was a systemic issue by which, when employees generated a levy and identified it as a disqualified employment tax levy, the system did not process the levy

²⁶ I.R.C. § 6330(f). Jeopardy tax levies do not require a notice to be sent 30 days prior to the levy issuance. Instead, the taxpayer must be provided the notice within a reasonable period of time after the levy. Per IRM 5.11.3.4 (Nov. 20, 2017), jeopardy levies require managerial approval prior to issuance.



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properly, did not post in the case history, and did not send a post-levy CDP notice, as discussed in the previous section.

- Nine cases, the levy was a jeopardy levy that did not receive a post-levy CDP notice as required.²⁷ IRS management will submit request to systemically identify jeopardy levies in ICS history.
- Seven cases, there were disqualified employment tax levies that did not receive a post-levy CDP notice as required, as discussed in the previous section.
- Six cases, the balance due module was created in the ICS by the revenue officer, and the system did not pull in all of the Integrated Data Retrieval System information to flag that there was not a new notice issued after the additional tax assessment. IRS management is working with analysts to submit a work request to create programming to address this issue.
- *****1*****
*****1*****
*****1*****
- *****1*****
*****1*****

Some Field Collection levies were improperly issued while taxpayers had pending CDP hearings

Our analysis of the population of 58,546 taxpayers with Field Collection levies issued during FY 2019 identified 40 taxpayers with levies that were issued while a CDP hearing was pending. As a result, these 40 taxpayers' rights were violated. The IRS received levy proceeds from these taxpayers totaling \$11,294.

- For 32 of the 40 taxpayers, the hearings were still open as of December 26, 2019. IRS management responded that for:
 - 21 of these taxpayers, the IRS received the CDP hearing request in Field Collection, but the revenue officers either did not know the request had been received or did not input the request timely before they levied the taxpayer. It is important that employees input these requests timely when received in order to allow systemic controls to prevent improper levies.
 - 10 of these taxpayers, the IRS received the CDP hearing request in the ACS, but the request was not input timely; therefore, the revenue officer did not know that a request had been received when they levied the taxpayer. This issue was identified in a prior TIGTA report, in which we recommended that the IRS take action to provide reasonable assurance that misdirected CDP hearing requests

²⁷ I.R.C. § 6330(f). Jeopardy tax levies do not require a notice to be sent 30 days prior to the levy issuance. Instead, the taxpayer must be provided the notice within a reasonable period of time after the levy. Per IRM 5.11.3.4 (Nov. 20, 2017), jeopardy levies require managerial approval prior to issuance.



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are forwarded to the correct location on the day that they are received.²⁸ The IRS agreed with this recommendation to update the IRM to require that requests be forwarded the same business day. Since the guidance was not issued prior to these FY 2019 levies, we will not be making a new recommendation at this time.

- *****1*****
*****1*****

- For eight of the 40 taxpayers, the hearings have since been closed. No levy proceeds resulted from the eight levies. For these eight taxpayers, the levies were issued due to reasons such as the CPD hearing request was either received late by the IRS employee working the levy, the CDP hearing opening was overlooked in error, or the request was not input on the ICS timely.

Manual Field Collection levies were not always issued properly

Revenue officers most commonly issue systemic levies through the ICS. However, they are also authorized to issue manually prepared levies on any case as needed. Manual levies are issued outside of the ICS and its controls. Managerial review or approval is generally not required when revenue officers issue manual levies. According to the IRS, revenue officers issued more than 2,900 manual levies in FY 2019. However, because details of these levies are not tracked, we were unable to identify this population. Therefore, we reviewed a judgmental sample of ICS manual levies issued during FY 2019.²⁹

Tests of a judgmental sample of 30 taxpayers with manual levies prepared by revenue officers identified *****1*****
*****1***** The IRS did not receive levy proceeds from these taxpayers.

IRS management stated that these issues were due to employee error. In our FY 2019 and FY 2018 reports, we identified a similar issue and IRS management stated that revenue officers received training related to ICS manual levy procedures in the first quarter of FY 2018; therefore, a recommendation was not made on this issue in those reports. However, we continue to see a consistent number of issues in this area. Without a way to track the population of these levies, it is difficult to know how widespread the issue is.

IRS management stated that these errors continue due to employee errors. As a corrective action, the Collection Policy function will update the relevant IRM with specific information on preparing a manual levy and will prepare a communication for the revenue officers with tips on preparing manual levies.

²⁸ TIGTA, Ref. No. 2019-10-058, *Review of the Office of Appeals Collection Due Process Program* p. 9 (Sept. 2019).

²⁹ A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.



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

Recommendation 1: Ensure that corrective programming is implemented so that, when a revenue officer generates a disqualified employment tax levy, the ICS properly posts in the case history and notifies employees to send the post-levy CDP notice.

Management's Response: The IRS agreed with this recommendation. It has submitted a programming request to resolve the error with the ICS not properly posting the disqualified employment tax levy in the case history. A programming request has also been submitted to create a systemic follow-up for the fifth day after issuance of the levy to remind employees to issue a post-levy CDP notice. Due to the schedule for ICS programming enhancements, this programming will be put into production in January 2022.

Recommendation 2: Ensure that corrective programming is implemented so that, when a revenue officer levies a tax module that is not in Field Collection status, he or she is notified to verify the proper time has passed since the CDP notice issuance.

Management's Response: The IRS agreed with this recommendation. It has submitted a programming request to display a warning message alerting the employee to verify an ICS-only balance due has received the proper CDP notice. Due to the schedule for ICS programming enhancements, this programming will be put into production in January 2022.

Recommendation 3: Ensure that corrective programming is implemented so that, when a jeopardy levy is issued, the ICS posts in the case history and notifies employees to send the post-levy CDP notice.

Management's Response: The IRS agreed with this recommendation. It has submitted a programming request so that, when a jeopardy levy is issued, the ICS posts in the case history and notifies the employee to send the post-levy CDP notice. Due to the schedule for ICS programming enhancements, this programming will be put into production in January 2022.

Recommendation 4: Ensure that corrective programming is implemented so that, when a revenue officer levies an ICS-only balance due module in the ICS, he or she is notified to verify the CDP notices were properly issued.

Management's Response: The IRS agreed with this recommendation. It has submitted a programming request so that, when a revenue officer levies an ICS-only balance due module in the ICS, he or she is notified to verify the CDP notices were properly issued. Due to the schedule for ICS programming enhancements, this programming will be put into production in January 2022.



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Recommendation 5: Ensure that corrective programming is implemented so that, when a levy fails during the generation process, the case history is updated.

Management's Response: The IRS disagreed with this recommendation. It stated that the recommendation is not feasible. However, it will update IRM 5.11.1 to advise employees to document in the ICS history that a levy was not issued when the levy fails during generation.

Office of Audit Comment: We believe that updating the IRM will help to address this issue, along with notifying revenue officers of the updated procedures.

Recommendation 6: Provide revenue officers with clarification and reinforcement of the requirements for timely identifying and inputting CDP hearing requests prior to issuing ICS levies.

Management's Response: The IRS agreed with this recommendation. It will issue a memorandum to the Director, Field Collection, for distribution to revenue officers. The memorandum will clarify and reinforce the requirements of timely identifying and inputting CDP hearing requests prior to issuing ICS levies.

Recommendation 7: Update the relevant IRM sections with specific information on preparing a manual levy and remind revenue officers of the proper ways to issue a manual levy.

Management's Response: The IRS agreed with this recommendation. It will update IRM 5.11.2 to include specific information on preparing a manual levy and will issue a memorandum to the Director, Field Collection, for distribution to revenue officers. The memorandum will provide supplemental information to assist revenue officers with preparing manual levies.

Levies Were Generally Prevented From Being Issued During the People First Initiative Suspension of Levy Period

In response to the economic impacts of the COVID-19 virus on taxpayers, the IRS initiated the People First Initiative, which included suspending new automated and systemic levies during the period of April 1, 2020, through July 15, 2020. We reviewed the ACS, ICS, and ALPs to determine whether levies were issued during this time.

For our initial review of levies issued April 1, 2020, through May 21, 2020, we found that the IRS has taken action to prevent ACS levies from being issued on taxpayers during this period. No levies were issued by the ACS or ACS collection representatives during this period. This is due to IRS programming to block the issuance of all levies within the ACS system.

We identified 35 taxpayers with levies that were issued on or after April 1, 2020, through the ICS by revenue officers. Revenue officers may issue levies to taxpayers despite the People First Initiative if there are pressing circumstances, such as statute expiration or in the case of a jeopardy levy.



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Our review of the ALPs found that the IRS has taken steps to prevent levies from being issued. For the Alaska Permanent Fund Dividend levy program, IRS management decided not to issue these levies for Calendar Year 2020.

For the Federal Payment Levy Program, we identified 535,635 Federal employee, retiree, and Social Security levies as well as 1,646 disqualified employment tax levies and 776 Federal contractor levies that were sent to the Bureau of the Fiscal Service between April 3 and May 21, 2020. However, on March 23, 2020, IRS management issued a memo to the Bureau of the Fiscal Service requesting to suspend the Federal Payment Levy Program automated levy processing, to which the Bureau of the Fiscal Service agreed. A future TIGTA audit will review levy proceeds to verify whether the Bureau of the Fiscal Service was able to successfully stop these levies.³⁰ IRS management also completed programming changes internally so that effective May 1, 2020, they would not continue sending levy files to the Bureau of the Fiscal Service. Our analysis verified that this was successfully completed, as we saw Federal Payment Levy Program transactions drop off in May.

Between April 2, 2020, and May 20, 2020, we also identified 501,183 taxpayers with the State Income Tax Levy Program indicator added to their account and 63,900 taxpayers with the Municipal Tax Levy Program indicator added to their account.³¹ On March 23, 2020, IRS management issued a memo requesting that States and municipalities suspend these ALPs. The IRS also implemented programming to suspend transfers of these files to the States and municipalities. However, some States and municipalities are unable to systemically stop these programs. If a State or municipality continues to electronically transfer levied funds, despite the IRS management's request to suspend doing so, the IRS cannot systemically reverse the payments.³² The future TIGTA audit will look more closely at this issue.

³⁰ TIGTA Audit No. 202030628, *IRS's People First Initiative*.

³¹ These indicators do not mean that a levy was issued. These accounts are now eligible to be levied by States and municipalities if that State or municipality determines the taxpayer is eligible for a tax refund.

³² As with any levies, if a taxpayer is experiencing hardship as a result of the levy, they may contact the IRS to release the levy.



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Appendix I

Detailed Objective, Scope, and Methodology

The overall objective was to determine whether the IRS complied with the IRS Restructuring and Reform Act of 1998 requirements and IRS policy to notify taxpayers and their authorized representatives of the right to a CDP hearing prior to issuing levies and to suspend levy action during the time frames required pursuant to I.R.C. § 6330. To accomplish our objective, we:

- Evaluated the adequacy of controls, requirements, and processes for issuing levies as per I.R.C. § 6330.
- Determined whether controls for levies issued by the ACS were adequate to comply with legal and procedural guidelines for notification to taxpayers prior to levy issuance.
- Determined whether controls for levies issued by revenue officers were adequate to comply with legal and procedural guidelines for notification to taxpayers prior to levy issuance.
- Identified potential error cases in which taxpayers' rights may have been violated because the CDP notice was not sent to the taxpayer timely. We discussed the error cases with IRS management. From the population of 190 potential error cases, they reviewed a random statistical sample of 92 cases and concurred that 24 cases were actual errors. We used a 26 percent error rate, a 6.6 percent precision, and a two-sided 95 percent confidence interval to estimate the number of error cases in the population. Our contracted statistician assisted with developing the projections. See Appendix II for details.
- Identified potential error cases in which taxpayers' rights may have been violated because the CDP notice transaction posted to show that the letter was issued but was reversed on the same or a later date prior to the levy, and the letter was not later reissued prior to the levy. We discussed the error cases with IRS management. From the population of 95 potential error cases, they reviewed a random statistical sample of 65 cases and concurred that 25 cases were actual errors. We used a 38 percent error rate, a 6.8 percent precision, and a two-sided 95 percent confidence interval to estimate the number of error cases in the population. Our contracted statistician assisted with developing the projections. See Appendix II for details.
- Identified a judgmental sample of 30 manual ICS levies issued by revenue officers outside of the ICS between October 1, 2018, and September 30, 2019.¹ We used a judgmental sample because the exact population of manual ICS levies cannot be identified because the IRS does not track them. We also worked with the Applied Research and Technology group to mine the data in the ICS histories for text references

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



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to manual levies. IRS management confirmed that these 30 levies were manual levies issued by revenue officers.

- Determined whether controls for levies issued on taxpayers with additional tax assessments were adequate to comply with legal and procedural guidelines for notification to taxpayers prior to levy issuance.
- Determined whether controls and procedures for taxpayers that requested a levy CDP hearing were adequate to ensure that levy actions were suspended for the required time period.

Performance of This Review

This review was performed with information obtained from the Small Business/Self-Employed Division National Headquarters Collection function located in Lanham, Maryland, during the period December 2019 through July 2020. 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.

Major contributors to the report were Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations); Phyllis Heald London, Director; Autumn Macik, Audit Manager; Myriam Dolsaint, Lead Auditor; Meaghan Tocco, Senior Auditor; and Lance Welling, Information Technology Specialist (Data Analytics)

Validity and Reliability of Data From Computer-Based Systems

We performed tests to assess the reliability of data from the ACS, ICS, Individual Master File, and Business Master File systems. We evaluated the data by (1) performing electronic testing of required data elements, (2) reviewing existing information about the data and the system that produced them, and (3) interviewing agency officials knowledgeable about the data. We determined that the data were sufficiently reliable for purposes of this report.

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 levy enforcement actions being taken on taxpayers that request CDP levy hearings. We evaluated these controls by reviewing populations and samples of taxpayer levies and CDP levy hearings.



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Appendix II

Outcome Measures

This appendix presents detailed information on the measurable impact that our recommended corrective actions 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; 145 taxpayer accounts for which the IRS did not timely issue the final CDP rights notification letter before issuing the levy (see Page 4).

Methodology Used to Measure the Reported Benefit:

From a population of 194,498 taxpayers with levies issued through the ACS between October 1, 2018, and September 30, 2019, we identified 145 taxpayers for which the IRS did not timely issue the final CDP rights notification letter before issuing the levy.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; three taxpayer accounts for which the IRS issued a levy while the taxpayer had a pending CDP hearing (see Page 4).

Methodology Used to Measure the Reported Benefit:

From a population of 194,498 taxpayers with levies issued through the ACS between October 1, 2018, and September 30, 2019, we identified three taxpayers for which the IRS issued a levy while the taxpayer had a pending CDP hearing.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 25 taxpayer accounts for which the IRS did not issue the final CDP rights notification letter before issuing the levy (see Recommendations 1 through 3).

Methodology Used to Measure the Reported Benefit:

From a population of 58,546 taxpayers with systemic ICS levies issued by revenue officers through the ICS between October 1, 2018, and September 30, 2019, we identified 25 taxpayers for which the IRS did not timely issue the final CDP rights notification letter.



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Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 87 taxpayer accounts for which the IRS did not timely issue the final CDP rights notification letter before issuing the levy (see Recommendations 1 through 3).

Methodology Used to Measure the Reported Benefit:

From the same population of 58,546 taxpayers with systemic ICS levies issued by revenue officers through the ICS between October 1, 2018, and September 30, 2019, we initially identified 285 potential error cases in which the IRS did not timely issue the final CDP rights notification letter.

From the population of 285 potential error cases, IRS management reviewed a random sample of 157 total cases. We reviewed the IRS's responses and concurred. We used the TIGTA contract statistician to assist with calculating projections and projected the mutually agreed-upon error cases to the two potential error case populations as follows:

- IRS management reviewed a random sample of 92 out of 190 potential cases for which the CDP notice was not timely sent to the taxpayer and concurred that 24 were error cases. We reviewed the IRS's responses and agreed that 24 (26 percent) of the 92 were errors. Based on the population of 190 potential error cases, using a 26 percent error rate, a 6.6 percent precision, and a two-sided 95 percent confidence interval, we estimate that 50 taxpayers' rights were potentially violated because they were not timely notified of their CDP rights.¹
- IRS management reviewed a random sample of 65 out of 95 cases for which the CDP notice transaction posted to show the letter was issued but was subsequently reversed or reversed on the same date, and the letter was not later reissued prior to the levy. The IRS concurred that 25 were error cases. We reviewed the IRS's responses and agreed that 25 (38 percent) of 65 were errors. Based on the population of 95 potential error cases, using a 38 percent error rate, a 6.8 percent precision, and a two-sided 95 percent confidence interval, we estimate that 37 taxpayers' rights were potentially violated because the CDP notice transaction posted to show the letter was issued but was reversed on the same date, and the letter was not later reissued prior to the levy.²

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 51 taxpayer accounts for which the IRS did not issue a new notice of intent to levy for the additional tax assessments prior to the levies being issued (see Recommendations 1 through 5).

¹ The point estimate projection for the actual total amount is based on using a two-sided 95 percent confidence interval. We are 95 percent confident that the actual value is between 38 and 63.

² The point estimate projection for the actual total amount is based on using a two-sided 95 percent confidence interval. We are 95 percent confident that the actual value is between 30 and 43.



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Methodology Used to Measure the Reported Benefit:

From a population of 16,958 taxpayers with levies issued by revenue officers through the ICS between October 1, 2018, and September 30, 2019, that had an additional tax assessment issued prior to the levy, we identified 51 taxpayers for which the IRS did not timely issue a new CDP notice after the additional tax assessment.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 40 taxpayer accounts for which the IRS issued a levy while the taxpayer had a pending CDP hearing (see Recommendation 6).

Methodology Used to Measure the Reported Benefit:

From a population of 58,546 taxpayers with levies issued by revenue officers through the ICS between October 1, 2018, and September 30, 2019, we identified 40 taxpayers for which the IRS issued a levy while the taxpayer had a pending CDP hearing.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; *****1*****
*****1***** (see Recommendation 7).

Methodology Used to Measure the Reported Benefit:

From a judgmental sample of 30 taxpayers with manual levies issued by revenue officers between October 1, 2018, and September 30, 2019, *****1*****
*****1*****
*****1*****.³

³ A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.



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Appendix IV

Previous Five Audit Reports Related to This Statutory Review

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

TIGTA, Ref. No. 2016-30-052, *Fiscal Year 2016 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (July 2016).

TIGTA, Ref. No. 2017-30-065, *Fiscal Year 2017 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (Aug. 2017).

TIGTA, Ref. No. 2018-30-068, *Fiscal Year 2018 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (Sept. 2018).

TIGTA, Ref. No. 2019-30-070, *Fiscal Year 2019 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (Sept. 2019).



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Appendix V

Management's Response to the Draft Report



COMMISSIONER
SMALL BUSINESS/Self-EMPLOYED DIVISION

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

August 25, 2020

MEMORANDUM FOR MICHAEL E. McKENNEY
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Eric C. Hylton **Eric C. Hylton** Digitally signed by Eric C. Hylton
Date: 2020.08.25 12:39:08 -04'00'
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report – Fiscal Year 2020 Statutory Review of
Compliance With Legal Guidelines When Issuing Levies (Audit
#202030016)

Thank you for the opportunity to review the subject draft report. As reflected in the audit report, the levies issued by our Automated Collection System (ACS) and Field Collection organizations complied with all legal and procedural requirements in the overwhelming majority of levy issuances. For example, in the population TIGTA identified of 194,498 taxpayers with ACS levies issued during Fiscal Year (FY) 2019, TIGTA identified Collection Due Process (CDP) issues in 148 cases, while in the population of 58,546 taxpayers who received levies issued by Field Collection, there were minor procedural issues relating to CDP issues in 205 cases, accuracy rates of 99.92% and 99.65% respectively. We understand the importance of respecting taxpayer rights and are taking corrective actions to address those few cases.

This year, to provide relief to taxpayers facing financial and other challenges due to COVID-19, the IRS suspended many of its enforcement programs from April through mid-July, including the issuance of levies (except in exigent circumstances), as part of the People First Initiative. As part of this year's review of the levy program, TIGTA examined our compliance with this suspension. We are pleased that the initial review found that the IRS took appropriate actions to prevent levies from being issued.

Last year, for the first time, you included our Automated Levy Programs (ALPs) in the annual levy audit and identified programming and procedural issues. We have implemented two of the four recommendations you suggested and are working to implement the remaining recommendations by the end of FY 2020. We appreciate the opportunity to implement these recommendations prior to you completing another review of those programs.

We are always seeking ways to further strengthen our levies program while protecting taxpayer rights and we appreciate your insights. We agree with the findings in this draft



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report and concur with the stated outcome measures. Attached is a detailed response outlining our corrective actions to address your recommendations. If you have any questions, please contact me or Paul Mamo, Director, Collection, Small Business/Self-Employed Division.

Attachment



Fiscal Year 2020 Statutory Review of Compliance With Legal Guidelines When Issuing Levies

Attachment

RECOMMENDATION 1:

The Director, Collection Policy, Small Business/Self-Employed Division, should ensure that corrective programming is implemented so that when a revenue officer generates a disqualified employment tax levy, the ICS properly posts in the case history and notifies employees to send the post-levy CDP notice.

CORRECTIVE ACTION:

We have submitted a programming request to resolve the error with Integrated Collection System (ICS) not properly posting the disqualified employment tax levy in the case history. A programming request has also been submitted to create a systemic follow up for the fifth day after issuance of the levy to remind employees to issue a post-levy CDP notice. Due to the schedule for ICS programming enhancements, this programming will be put into production in January 2022.

IMPLEMENTATION DATE:

February 15, 2022

RESPONSIBLE OFFICIAL:

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

CORRECTIVE ACTION MONITORING PLAN:

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

RECOMMENDATION 2:

The Director, Collection Policy, Small Business/Self-Employed Division, should ensure that corrective programming is implemented so that when a revenue officer levies a tax module that is not in Field Collection status, they are notified to verify the proper time has passed since the CDP notice issuance.

CORRECTIVE ACTION:

We have submitted a programming request to display a warning message alerting the employee to verify an ICS-Only Balance Due has received the proper CDP notice. Due to the schedule for ICS programming enhancements, this programming will be put into production in January 2022.

IMPLEMENTATION DATE:

February 15, 2022

RESPONSIBLE OFFICIAL:

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



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CORRECTIVE ACTION MONITORING PLAN:

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

RECOMMENDATION 3:

The Director, Collection Policy, Small Business/Self-Employed Division, should ensure that corrective programming is implemented so that when a jeopardy levy is issued, the ICS posts in the case history and notifies employees to send the post-levy CDP notice.

CORRECTIVE ACTION:

We have submitted a programming request so that when a jeopardy levy is issued, the ICS posts in the case history and notifies the employee to send the post-levy CDP notice. Due to the schedule for ICS programming enhancements, this programming will be put into production in January 2022.

IMPLEMENTATION DATE:

February 15, 2022

RESPONSIBLE OFFICIAL:

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

CORRECTIVE ACTION MONITORING PLAN:

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

RECOMMENDATION 4:

The Director, Collection Policy, Small Business/Self-Employed Division, should ensure that corrective programming is implemented so that when a revenue officer levies an ICS-only Balance Due module in the ICS, they are notified to verify the CDP notices were properly issued.

CORRECTIVE ACTION:

We have submitted a programming request so that when a revenue officer levies an ICS-only Balance Due module in the ICS, they are notified to verify the CDP notices were properly issued. Due to the schedule for ICS programming enhancements, this programming will be put into production in January 2022.

IMPLEMENTATION DATE:

February 15, 2022



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RESPONSIBLE OFFICIAL:

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

CORRECTIVE ACTION MONITORING PLAN:

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

RECOMMENDATION 5:

The Director, Collection Policy, Small Business/Self-Employed Division, should ensure that corrective programming is implemented so that when a levy fails during the generation process, the case history is updated.

CORRECTIVE ACTION:

The corrective programming the recommendation suggests is not feasible. However, we will update Internal Revenue Manual (IRM) 5.11.1 to advise employees to document the ICS history that a levy was not issued when the levy fails during generation.

IMPLEMENTATION DATE:

March 15, 2021

RESPONSIBLE OFFICIAL:

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

CORRECTIVE ACTION MONITORING PLAN:

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

RECOMMENDATION 6:

The Director, Collection Policy, Small Business/Self-Employed Division, should provide revenue officers with clarification and reinforcement of the requirements for timely identifying and inputting CDP hearing requests, prior to issuing ICS levies.

CORRECTIVE ACTION:

We will issue a memorandum to the Director of Field Collection for distribution to revenue officers. The memorandum will clarify and reinforce the requirements of timely identifying and inputting CDP hearing requests prior to issuing ICS levies.

IMPLEMENTATION DATE:

March 15, 2021



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RESPONSIBLE OFFICIAL:

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

CORRECTIVE ACTION MONITORING PLAN:

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

RECOMMENDATION 7:

The Director, Collection Policy, Small Business/Self-Employed Division, should update the relevant IRM sections with specific information on preparing a manual levy and remind revenue officers of the proper ways to issue a manual levy.

CORRECTIVE ACTION:

We will update IRM 5.11.2 to include specific information on preparing a manual levy and will issue a memorandum to the Director of Field Collection for distribution to revenue officers. The memorandum will provide supplemental information to assist revenue officers with preparing manual levies.

IMPLEMENTATION DATE:

March 15, 2021

RESPONSIBLE OFFICIAL:

Director Collection Policy, Small Business/Self-Employed Division

CORRECTIVE ACTION MONITORING PLAN:

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



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Appendix VI

Glossary of Terms

Term	Definition
Alaska Permanent Fund Dividend Levy Program	An ALP that operates in conjunction with the State of Alaska, Department of Revenue, Permanent Fund Dividend Division.
Automated Collection System	A telephone contact system through which collection representatives collect unpaid taxes and secure tax returns from delinquent taxpayers that have not complied with previous notices.
Automated Levy Program	A levy program in which selected Federal tax debts are matched with State taxing authorities, municipal taxing authorities, and Federal agencies disbursing funds such as salary, pension, and vendor payments.
Business Master File	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.
Campus	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.
Collection Due Process Rights	I.R.C. Section 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.
Collection Representative	The duties of a collection representative are varied. Many hours are spent on the telephone and working taxpayer contact inventory. Some of their duties include securing levy sources, resolving delinquent accounts, and responding to taxpayer correspondence.
Disqualified Employment Tax Levy	A levy served to collect an employment tax liability for taxpayers that previously requested a CDP hearing involving unpaid employment tax.
Federal Contractor Levy	Any levy if the person whose property is subject to the levy (or any predecessor thereof) is a Federal contractor.
Federal Payment Levy Program	An ALP that the IRS has implemented with the Department of the Treasury Bureau of the Fiscal Service since Calendar Year 2000. The Bureau of the Fiscal Service administers the Treasury Offset Program to collect delinquent debts owed to Federal agencies. The Treasury Offset Program matches delinquent debts with money that Federal agencies pay. To the extent allowed by law, when a match happens, the Treasury Offset Program withholds (offsets) money to pay the delinquent debt. The Federal Payment Levy Program was developed to interface with the Treasury Offset Program as a systemic and efficient means for the IRS to collect delinquent taxes.
Field Collection	The unit in the Area Offices consisting of revenue officers who handle face-to-face contacts with taxpayers to collect delinquent accounts or secure unfiled returns.



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Fiscal Year	Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.
Individual Master File	The IRS database that maintains transactions or records of individual tax accounts.
Integrated Collection System	An information management system designed to improve revenue collections by providing revenue officers access to the most current taxpayer information, while in the field, using laptop computers for quicker case resolution and improved customer service.
Integrated Data Retrieval System	An IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.
Internal Revenue Code	Title 26 of the United States Code enacted by Congress containing all relevant rules pertaining to estate, excise, gift, income, payroll, and sales taxes.
Internal Revenue Manual	The primary, official source of IRS "instructions to staff" related 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 IRS divisions and functions.
Jeopardy Levy	A levy that is issued if collection is in jeopardy. The taxpayer must be offered CDP rights within a reasonable period after the levy, if not provided prior to the levy.
Manual Levy	A manual ICS levy is a paper levy form that is manually prepared and issued by a revenue officer. A manual ACS levy is a paper levy form that is manually prepared and issued by an ACS employee.
Module	Refers to one specific tax return filed by the taxpayer for one specific tax period (year or quarter) and type of tax.
Municipal Tax Levy Program	An ALP that matches a Master File database of delinquent taxpayers eligible to be levied against a database of local income tax refunds for each municipality participating in the program.
Paper Levy	A paper ACS levy is initiated through the ACS by a collection representative, resulting in levy preparation and issuance by the system.
Revenue Officer	Employees in the field who attempt to contact taxpayers and resolve collection matters that have not been resolved through notices sent by the IRS campuses or the ACS.
State Income Tax Levy Program	An ALP that matches a Master File database of delinquent taxpayers eligible to be levied against a database of State tax refunds for each State participating in the program.
Systemic Levy	ACS systemic levies are initiated, prepared, and issued completely by the ACS with no manual intervention necessary. ICS systemic levies are initiated by revenue officers resulting in levy preparation and issuance by the system.
Tax Period	Each tax return filed by the taxpayer for a specific period (year or quarter) during a calendar year for each type of tax.



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Appendix VII

Abbreviations

ACS	Automated Collection System
ALP	Automated Levy Program
CDP	Collection Due Process
FY	Fiscal Year
ICS	Integrated Collection System
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
TIGTA	Treasury Inspector General for Tax Administration