



*Fiscal Year 2009 Statutory Review of
Compliance With Legal Guidelines When
Issuing Levies*

May 12, 2009

Reference Number: 2009-30-070

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.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

May 12, 2009

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED
DIVISION

Michael R. Phillips

FROM:

Michael R. Phillips
Deputy Inspector General for Audit

SUBJECT:

Final Audit Report – Fiscal Year 2009 Statutory Review of Compliance
With Legal Guidelines When Issuing Levies (Audit # 200930003)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) has complied with 26 United States Code (U.S.C.) Section (§) 6330, Notice and Opportunity for Hearing Before Levy.¹ This audit is statutorily required each fiscal year.

Impact on the Taxpayer

The IRS Restructuring and Reform Act of 1998² requires the IRS to notify taxpayers at least 30 calendar days before initiating any levy action to give taxpayers an opportunity to formally appeal the proposed levy. We determined the IRS is complying with the legal guidelines and protecting taxpayer rights.

Synopsis

This is the eleventh annual report the Treasury Inspector General for Tax Administration has issued in compliance with the IRS Restructuring and Reform Act of 1998 requirement to determine whether the IRS is complying with legal guidelines over the issuance of levies. Our

¹ 26 U.S.C. § 6330 (Supp. IV 1998) *as amended* by the Trade Act of 2002, Pub. L. No. 107-210, 116 Stat. 933; the Job Creation and Worker Assistance Act of 2002, Pub. L. No. 107-147, 116 Stat. 21 (codified in scattered sections of 26 U.S.C., 29 U.S.C., and 42 U.S.C.); the Victims of Terrorism Tax Relief Act of 2001, Pub. L. No. 107-134, 115 Stat. 2427 (2002); and the Community Renewal Tax Relief Act of 2000, Pub. L. No. 106-554, 114 Stat. 2763.

² Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).



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prior reports recognized that the IRS has implemented tighter controls related to systemically generated levies. This was due primarily to the development of systemic controls in both the Automated Collection System³ and the Integrated Collection System⁴ to prevent levies from being generated unless there were at least 30 calendar days between the date taxpayers received notice of their appeal rights and the date of the proposed levies. Our testing of these controls indicated that they continued to function effectively. Specifically, our review of 15 Automated Collection System and 15 Integrated Collection System systemic levies issued between July 1, 2007, and June 30, 2008, showed the IRS properly informed taxpayers of their appeal rights at least 30 calendar days prior to issuing levies.

Since Fiscal Year 2005, we have reported that revenue officers in field offices and Automated Collection System function customer service representatives properly notified taxpayers of their appeal rights when issuing manual levies.⁵ Our review this year of 30 Integrated Collection System and 30 Automated Collection System manual levies issued between July 1, 2007, and June 30, 2008, showed revenue officers and customer service representatives continued to properly inform taxpayers of their rights at least 30 calendar days prior to issuing the levies.

Response

Although we made no recommendations in this report, we did provide IRS officials an opportunity to review the draft report. IRS management did not provide us with any report comments.

Copies of this report are also being sent to the IRS managers affected by the report conclusions. Please contact me at (202) 622-6510 if you have questions or Margaret E. Begg, Assistant Inspector General for Audit (Compliance and Enforcement Operations), at (202) 622-8510.

³ A telephone contact system through which telephone assistants collect unpaid taxes and secure tax returns from delinquent taxpayers who have not complied with previous notices.

⁴ An automated system used to control and monitor delinquent cases assigned to revenue officers in the field offices.

⁵ See Appendix V for a list of previous audit reports related to this review.



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Abbreviations

| | |
|--------|------------------------------|
| ACS | Automated Collection System |
| ICS | Integrated Collection System |
| IRS | Internal Revenue Service |
| U.S.C. | United States Code |



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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 IV for an example of a Levy (Form 668-B)). The IRS Restructuring and Reform Act of 1998¹ requires the IRS to notify the taxpayer at least 30 calendar days before initiating a levy action to give the taxpayer an opportunity to formally appeal the proposed 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 the taxpayer at least 30 calendar days before initiating a levy action.

The IRS Restructuring and Reform Act of 1998 also requires the Treasury Inspector General for Tax Administration to annually verify whether the IRS is complying with the provisions. This is the eleventh year in which we have evaluated the controls over levies.

Two operations within the IRS issue levies to collect delinquent taxes:

- The Automated Collection System (ACS), through which customer service representatives contact delinquent taxpayers by telephone to collect unpaid taxes and secure tax returns.
- The Collection Field function, where revenue officers contact delinquent taxpayers in person as the final step in the collection process. Field contact becomes necessary when the ACS function does not resolve the tax matter. Delinquent cases assigned to revenue officers in the field offices are controlled and monitored with the automated Integrated Collection System (ICS).

Both operations issue two types of levies: systemically generated levies and manual levies. Virtually all levies issued by customer service representatives are generated through the ACS. To comply with requirements in the IRS Restructuring and Reform Act of 1998, the ACS contains a control that prevents a levy from being generated if there are fewer than 30 calendar days between the date the taxpayer was notified of the pending levy and the date requested for the actual issuance of the levy. This control is designed to ensure that taxpayers have been notified at least 30 calendar days prior to issuance of the levies and have been informed of their appeal rights for any systemically generated levies. In addition, managers approve all levy actions. Even when an employee manually generates the request for a levy (as opposed to the

¹ Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 United States Code (U.S.C.), 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).



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system generating the request), the systemic controls of at least 30 calendar days' notice and managerial approval are in place.

The ICS includes a control, similar to the control in the ACS, which prevents revenue officers from issuing levies unless taxpayers have received 30 calendar days' notice and have been informed of their appeal rights. If fewer than 30 calendar days have elapsed since the final notice date, the ICS will not generate a levy.

Previous Treasury Inspector General for Tax Administration audit reports² have recognized that the IRS has significantly improved controls over the issuance of systemically generated levies, primarily due to the development of these systemic controls in both the ACS and ICS. Based on previous audit results, we consider the controls to be strong and, therefore, we reviewed only a limited sample of systemic levies to ensure that the controls were still effective.

There is a higher risk when revenue officers issue manual levies because they request these levies outside of the systemic controls that exist and there is no managerial approval required as there is for all ACS levies. Treasury Inspector General for Tax Administration audit reports issued prior to Fiscal Year 2005 reported that additional controls were needed over manual levies issued by revenue officers. Beginning with our Fiscal Year 2005 report, we have reported that revenue officers properly notified taxpayers of their right to a hearing when issuing manual levies. However, we consider the risk high and continued to test the manual levies.

Because the ICS is not generating the levies, we cannot be assured that there is a complete automated trail for manual levies. Therefore, it is impossible to reliably determine the exact number of manual levies issued by revenue officers during our review period. However, we estimate that customer service representatives manually generated about 20 percent of all levies issued through the ACS during our audit period. We estimate that revenue officer requests for manual levies were less than 1 percent of all levies requested by revenue officers.

This review was performed at the Small Business/Self-Employed Division National Headquarters in the Collection office in New Carrollton, Maryland, during the period September 2008 through January 2009. 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.

² See Appendix V for a list of previous audit reports related to this review.



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Results of Review

Controls Implemented to Protect Taxpayer Rights During the Issuance of Systemic Levies Are Operating Effectively

Our review of systemically generated levies showed that taxpayers' rights were protected. The IRS gave taxpayers notice of their appeal rights at least 30 calendar days prior to the issuance of the levies.

Taxpayers were given notice of their appeal rights when systemic levies were issued.

ACS systemic controls are effective

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

Virtually all levies issued by customer service representatives are generated through the ACS, which contains a control developed to comply with the IRS Restructuring and Reform Act of 1998 that compares the date the taxpayer was notified of the pending levy with the date requested for the actual issuance of 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 at least 30 calendar days prior to the levies and have been informed of their appeal rights for any systemically generated levies.

We tested the effectiveness of this control by reviewing a random sample of 15 levies issued through the ACS between July 1, 2007, and June 30, 2008. We compared the date of the final notification letter to the date of the issuance of the levy. All 15 taxpayers were timely notified of their appeal rights. Therefore, the systemic controls in the ACS Call Centers effectively protected taxpayers' appeal rights.

ICS systemic controls are effective

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



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The IRS installed a control in the ICS similar to the control in the ACS that prevents levies from being issued unless taxpayers have received 30 calendar days' notice and have been informed of their appeal rights. If fewer than 30 calendar days have elapsed since the final notice date, the ICS will not generate a levy.

We tested the effectiveness of this control by reviewing a random sample of 15 systemically generated levies issued through the ICS between July 1, 2007, and June 30, 2008. We compared the date of the final notification letter to the date of the issuance of the levy. All 15 taxpayers had received notification of their appeal rights at least 30 calendar days prior to the levies. Therefore, the systemic controls over levies issued by revenue officers in Collection Field function offices effectively protected taxpayers' appeal rights.

Employees Properly Notified Taxpayers of Their Appeal Rights Prior to Issuing Manual Levies

Although the ACS function primarily issues levies systemically, customer service representatives may also request manual levies under certain circumstances, such as levies on Individual Retirement Arrangements and in jeopardy situations.³ Manual levies require the same advance notification to the taxpayer as systemic levies, except in cases involving jeopardy situations. IRS procedures require that manual levies issued by customer service representatives be reviewed and approved by a manager prior to the levies being issued. We consider this managerial review to be an effective control.

We analyzed the case histories for ACS function cases to identify any manual levies issued between July 1, 2007, and June 30, 2008. Because there is no automated audit trail produced for manual levies, we used employee and action codes⁴ as the basis to identify any potential manual levies issued by ACS function employees. Our review of 30 manual levies issued by customer service representatives showed that the IRS adequately protected taxpayers' appeal rights.

Our review of 30 ACS function and 30 ICS manual levies determined that the IRS protected taxpayers' appeal rights in these cases.

Revenue officers issue levies systemically through the ICS in most cases. They are also authorized to issue a manual levy on any case as needed. While managerial approval is mandatory for manual levies issued by the ACS function, no review or approval is required when

³ A jeopardy situation occurs when the IRS is concerned that the taxpayer may attempt to hide or dispose of assets to prevent enforced collection actions.

⁴ The action code shows what action was taken, such as levy. The employee code shows whether there was a system-generated action or an employee-generated action.



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revenue officers issue manual levies. We believe there is a high risk associated with manual levies because no review is required.

We analyzed the ICS case inventory assigned to revenue officers to identify any manual levies issued between July 1, 2007, and June 30, 2008. Because no automated audit trail is produced for manual levies, we analyzed case history comments for any reference to a manual levy. Using this methodology, we identified cases in which a manual levy was issued to seize taxpayers' assets and reviewed a judgmental sample of 30 cases. In all 30 cases, taxpayers received proper notification of their rights.



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Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine whether the IRS has complied with 26 U.S.C. § 6330, Notice and Opportunity for Hearing Before Levy.¹ To accomplish our objective, we:

- I. Determined whether manual levies issued by both revenue officers and ACS² function customer service representatives complied with legal guidelines in 26 U.S.C. § 6330.
 - A. Identified any references to manual levies issued between July 1, 2007, and June 30, 2008, by querying the history narrative text field of the ICS³ open case inventories. We identified and reviewed a judgmental sample of 30 manual levies from the open ICS cases. We used judgmental sampling because we could not identify the population of manual levies issued.
 - B. By using the employee and action codes⁴ on the ACS, identified 102,669 employee-requested levies on the ACS between July 1, 2007, and June 30, 2008, and randomly selected a sample of 30 manual levies.
 - C. Requested case history files for all cases containing references to manual levies identified in Steps I.A. and I.B.
 - D. Reviewed case history documentation and identified whether a revenue officer or an ACS function customer service representative had issued a manual levy.
 - E. Analyzed Master File⁵ transcripts and ACS and ICS history files to determine whether taxpayers were provided at least 30 calendar days' notice prior to any levy actions initiated by the IRS.

¹ 26 U.S.C. § 6330 (Supp. IV 1998) *as amended by* the Trade Act of 2002, Pub. L. No. 107-210, 116 Stat. 933; the Job Creation and Worker Assistance Act of 2002, Pub. L. No. 107-147, 116 Stat. 21 (codified in scattered sections of 26 U.S.C., 29 U.S.C., and 42 U.S.C.); the Victims of Terrorism Tax Relief Act of 2001, Pub. L. No. 107-134, 115 Stat. 2427 (2002); and the Community Renewal Tax Relief Act of 2000, Pub. L. No. 106-554, 114 Stat. 2763.

² A telephone contact system through which telephone assistants collect unpaid taxes and secure tax returns from delinquent taxpayers who have not complied with previous notices.

³ An automated system used to control and monitor delinquent cases assigned to revenue officers in the field offices.

⁴ The action code shows what action was taken, such as levy. The employee code shows whether there was a system-generated action or an employee-generated action.

⁵ The IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.



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- II. Determined whether the IRS maintains sufficient automated controls and procedures to ensure that taxpayers are advised of their right to a hearing at least 30 calendar days prior to any levy action by testing systemically generated levies.
- A. Selected a random sample of 15 ACS levies from the population of approximately 401,000 levies involving 232,000 taxpayers and 15 ICS levies from the population of approximately 497,000 levies involving 99,000 taxpayers issued between July 1, 2007, and June 30, 2008, from ACS and ICS databases of open cases maintained in the Treasury Inspector General for Tax Administration Data Center Warehouse.⁶ We did not plan to use statistical sampling because, based on prior years' testing, we did not anticipate finding any errors and the controls are strong.
- B. Analyzed Master File transcripts and case histories as necessary to verify that taxpayers were advised of their right to a hearing at least 30 calendar days prior to any levy action.
- III. Validated data from the ACS and ICS by relying on Treasury Inspector General for Tax Administration Data Center Warehouse site procedures that ensure that data received from the IRS are valid. The Data Center Warehouse performs various procedures to ensure that it receives all the records in the ACS, ICS, and IRS databases. In addition, we scanned the data for reasonableness and are satisfied that the data are sufficient, complete, and relevant to the review. All of the levies identified are in the appropriate period, and the data appeared to be logical.

⁶ A centralized storage and administration of files that provides data and access services of IRS data.



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Appendix II

Major Contributors to This Report

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Operations)
Carl Aley, Director
Lynn Wofchuck, Audit Manager
Pillai Sittampalam, Lead Auditor
Christina Dreyer, Senior Auditor



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Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Deputy Commissioner for Services and Enforcement SE
Deputy Commissioner, Small Business/Self-Employed Division SE:S
Director, Collection, Small Business/Self-Employed Division SE:S:C
Director, Collection Policy, Small Business/Self-Employed Division SE:S:C:CP
Chief Counsel CC
National Taxpayer Advocate TA
Director, Office of Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis RAS:O
Office of Internal Control OS:CFO:CPIC:IC
Audit Liaison: Commissioner, Small Business/Self-Employed Division SE:S



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Appendix IV

Example of Levy (Form 668-B)

| Form 668-B (Rev. May 2003) | | Department of the Treasury – Internal Revenue Service Levy | | |
|---|------------------|--|---------------------|-------|
| Due from <i>(Taxpayer name and address)</i> | | Originating Internal Revenue Territory Office | | |
| Taxpayer Identification Number (TIN) ▶ | | | | |
| Kind of Tax | Tax Period Ended | Unpaid Balance of Assessment | Statutory Additions | Total |
| | | \$ | \$ | \$ |
| | | Total amount due ▶ | | \$ |

The amounts shown above are now due, owing, and unpaid to the United States from the above taxpayer for internal revenue taxes. Notice and demand have been made for payment. Chapter 64 of the Internal Revenue Code provides a lien for the above tax and statutory additions. Section 6331 of the Code authorizes collection of taxes by levy on all property or rights to property of a taxpayer, except property that is exempt under section 6334.

Therefore, under the provisions of Code section 6331, so much of the property or rights to property, either real or personal, as may be necessary to pay the unpaid balance of assessment shown, with additions provided by law, including fees, costs, and expenses of this levy, are levied on to pay the taxes and additions.

Dated at _____, 20____
(Place) *(Date)*

| | | | |
|------------------------------|--|------------------|------|
| Signature of Revenue Officer | | Telephone number | Date |
| Concurrence | Printed name of Group Manager | Signature | Date |
| | Printed name of Territory Manager | Signature | Date |
| | Printed name of Area Director, if required | Signature | Date |

(Printed name of taxpayer or taxpayer's representative) was asked to be present during inventory.

The above named individual was present at inventory. Yes No

(Signature of Revenue Officer)



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Appendix V

Previous Audit Reports Related to This Statutory Review

The Internal Revenue Service Has Not Fully Implemented Procedures to Notify Taxpayers Before Taking Their Funds For Payment of Tax (Reference Number 1999-10-071, dated September 29, 1999).

The Internal Revenue Service Has Significantly Improved Its Compliance With Levy Requirements (Reference Number 2000-10-150, dated September 20, 2000).

The Internal Revenue Service Complied With Levy Requirements (Reference Number 2001-10-113, dated July 23, 2001).

The Internal Revenue Service Has Improved Controls Over the Issuance of Levies, But More Should Be Done (Reference Number 2002-40-176, dated September 18, 2002).

The Internal Revenue Service Does Not Have Controls Over Manual Levies to Protect the Rights of Taxpayers (Reference Number 2003-40-129, dated June 26, 2003).

Additional Efforts Are Needed to Ensure Taxpayer Rights Are Protected When Manual Levies Are Issued (Reference Number 2004-30-094, dated April 29, 2004).

Taxpayer Rights Are Being Protected When Levies Are Issued (Reference Number 2005-30-072, dated June 1, 2005).

Fiscal Year 2006 Statutory Review of Compliance With Legal Guidelines When Issuing Levies (Reference Number 2006-30-101, dated August 4, 2006).

Fiscal Year 2007 Statutory Review of Compliance With Legal Guidelines When Issuing Levies (Reference Number 2007-30-070, dated April 20, 2007).

Fiscal Year 2008 Statutory Review of Compliance With Legal Guidelines When Issuing Levies (Reference Number 2008-30-097, dated April 15, 2008).