

**Full Compliance With Requirements for
Notifying Taxpayers of Federal Tax Lien
Filings Has Not Yet Been Achieved**

August 2001

Reference Number: 2001-10-127

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.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

August 9, 2001

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS AND
SELF-EMPLOYED DIVISION

Handwritten signature of Pamela J. Gardiner in cursive.

FROM: Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Full Compliance With Requirements for
Notifying Taxpayers of Federal Tax Lien Filings Has Not Yet
Been Achieved

This report presents the results of our review of the Internal Revenue Service's (IRS) compliance with lien requirements. The objective of this audit was to determine if the IRS complied with 26 U.S.C. § 6320¹ by notifying taxpayers that a Notice of Federal Tax Lien (NFTL) has been filed, and of their appeal rights, within five business days after a NFTL has been filed. We also determined if the IRS complied with internal guidelines when filing NFTLs.

In summary, we found that the IRS has not yet achieved full compliance with the law and its own internal guidelines. A review of 167 lien notices that were filed identified 14 cases (8 percent) with potential legal violations of taxpayers' rights. In addition, IRS employees did not comply with internal guidelines in 58 cases (35 percent). The IRS performed a similar review during Fiscal Year 2001 and identified similar instances of noncompliance with both legal and internal guidelines. However, the IRS review did not address specific causes or any actions planned to prevent problems from occurring.

We recommended that the Commissioner, Small Business and Self-Employed Division, take appropriate actions to improve the effectiveness of the lien compliance review and to correct the potential legal violations identified in this audit.

¹ 26 U.S.C. § 6320 (Supp. IV 1998).

IRS management agreed to improve the lien compliance review by focusing on the cause of noncompliance for lien procedures. To improve compliance, they will follow up with field offices by conducting training sessions for the lien unit managers. Also, management agreed to consult with Chief Counsel to discuss any actions necessary to correct potential legal violations for the cases and issues identified in this report. The full text of management's comments is included as an appendix.

Copies of this report are also being sent to the IRS managers who are affected by the report recommendations. Please contact me at (202) 622-6510 if you have questions or Maurice S. Moody, Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

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Executive Summary

When initial contacts by the Internal Revenue Service (IRS) do not result in the successful collection of unpaid tax, the IRS has the authority to attach a claim to the taxpayer's assets for the amount of unpaid tax liabilities.¹ This claim is referred to as a Federal Tax Lien.

Since January 19, 1999, the IRS has been required by 26 U.S.C. § 6320² to notify taxpayers that a Notice of Federal Tax Lien (NFTL) has been filed. The notice must be provided to the taxpayer within 5 business days after a NFTL has been filed and must include an explanation of the taxpayer's right to request a hearing within the 30 calendar days following the 5 business days. The Treasury Inspector General for Tax Administration (TIGTA) is required to determine annually whether NFTLs filed by the IRS comply with the legal guidelines in 26 U.S.C. § 6320.³ In Fiscal Year (FY) 1999, we reported that 33 percent of the lien notices reviewed involved potential violations of taxpayer rights.⁴ In FY 2000, we reported that the IRS had improved compliance; only 4 percent of the lien notices reviewed did not meet legal requirements.⁵

This is the third annual audit to determine if the NFTLs filed by the IRS comply with legal requirements set forth in 26 U.S.C. § 6320. The audit also included a review of the IRS' own related internal guidelines when filing NFTLs. To accomplish the objective, we reviewed a nationwide statistical sample of 167 lien notices requested through the IRS' Automated Lien System (ALS), the Automated Collection System, and the Integrated Collection System between January 1 and August 31, 2000.

Results

The IRS has not yet achieved full compliance with the law and its own internal guidelines. A review of 167 lien notices identified 14 cases (8 percent) with potential legal violations of taxpayers' rights. We estimate that similar taxpayer rights could have

¹ 26 U.S.C. § 6321 (1994).

² 26 U.S.C. § 6320 (Supp. IV 1998).

³ 26 U.S.C. § 7803(d)(1)(A)(iii) (Supp. IV 1998).

⁴ *The Internal Revenue Service Should Improve Its Federal Tax Lien Procedures* (Reference Number 1999-10-074, dated September 1999).

⁵ *Compliance With Requirements for Notifying Taxpayers of Federal Tax Lien Filings Has Not Yet Been Achieved* (Reference Number 2000-10-152, dated September 2000).

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been potentially affected in 11,507 lien notifications from January 1 to August 31, 2000. In addition, we identified 58 cases (35 percent) in which IRS employees did not follow internal guidelines. Four cases involved both legal and internal guideline violations.

The IRS performed a similar review of lien notices filed in four offices during the last half of FY 2000, and identified instances of noncompliance with both legal and internal guidelines similar to those in this report. However, the IRS report did not address specific causes or any actions planned to prevent similar problems from occurring, as the TIGTA had recommended in the FY 2000 report.

The Internal Revenue Service Did Not Always Follow Legal Provisions and Its Own Guidelines for Filing Notices of Federal Tax Lien

To achieve full compliance with the law and related internal guidelines, the IRS must mail all notices timely, notify taxpayers and their representatives of lien filings, process undelivered notices correctly, properly document actions taken in each case, and maintain supporting documentation of actions taken.

If the taxpayer is not notified that a lien has been filed, he or she might not be aware of the right to appeal. In addition, delays in mailing the notices can reduce the time taxpayers have to request a hearing to less than the 30-day period allowed by the law. These errors could result in potential violations of the taxpayer's rights, particularly when the taxpayer appeals the filing of the lien and the IRS denies the request for the appeal.

Legal provisions

The IRS issued notices informing taxpayers that a NFTL had been filed in 163 of 167 (98 percent) cases we sampled in the review. For the remaining 4 cases (2 percent), due to employee error, the notices were either not mailed to the taxpayer, the taxpayer's spouse, or to the taxpayer's business partners; or were not mailed to the taxpayer's or spouse's last known address. The IRS has substantially automated the lien notification process. However, certain information must be manually input into the ALS when requesting the lien due process notices, including the names of business partners and newfound addresses.

In 135 of 145 (93 percent) cases reviewed where the IRS provided proof of mailing, the notices were mailed within 5 business days after the NFTL was filed.⁶ For the remaining 10 cases (7 percent), the notices were late because they were not printed timely or were not mailed timely. This condition occurred during a time when the IRS had an unusual increase in the volume of liens filed during a 3-month time period.

⁶ For 22 of 167 cases reviewed, the IRS either did not mail the lien notices (4 cases) or did not provide proof of mailing (18 cases).

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Internal guidelines

In 58 of 167 (35 percent) cases reviewed, the IRS did not always follow its internal guidelines when issuing lien notices. In 2 of the 58 cases, there were multiple violations of the internal guidelines.

- For 18 cases, the IRS could not provide proof of mailing. This happened when there were no certified mail listings on file, the listings were not date stamped to substantiate that notices were mailed to taxpayers, or the dates on the listings were not legible. IRS procedures require the retention of the date-stamped copy of the listings for 10 years after the end of the processing year.
- For 42 cases, neither the case histories nor the ALS database indicated that the taxpayer's representative was provided with a copy of the lien due process notice. IRS procedures require that a copy of the notice be sent to the taxpayer's representative when a NFTL is filed against a taxpayer he or she represents.

Lien due process compliance review

In response to the TIGTA's FY 2000 report, the IRS modified its lien due process compliance review. The review was modified to include analyses to determine if the IRS notified business partners, spouses, and taxpayers' representatives of the filing of a NFTL, and to determine if undelivered mail was timely processed. The revised review provides an effective method to measure the IRS' compliance with the law and its own internal guidelines. However, the IRS did not address either the specific causes of why established procedures were not followed or the planned actions to prevent similar problems, as the TIGTA had recommended in the FY 2000 report.

Summary of Recommendations

We recommend that the Commissioner, Small Business and Self-Employed (SB/SE) Division, take appropriate actions to improve the effectiveness of the lien compliance review and to correct the potential legal violations that the TIGTA identified in this audit.

Management's Response: SB/SE management agreed to improve the lien compliance review by focusing on the cause of noncompliance for lien procedures. To improve compliance, SB/SE management will follow up with field offices by conducting training sessions for the lien unit managers. SB/SE management also agreed to consult with Chief Counsel to discuss any actions needed to correct the potential legal violations identified in this audit.

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Objective and Scope

This audit determined whether the Internal Revenue Service complied with the law and its internal guidelines when filing Notices of Federal Tax Lien.

The objective of this audit was to determine if Notices of Federal Tax Lien (NFTL) filed by the Internal Revenue Service (IRS) comply with legal requirements set forth in 26 U.S.C. § 6320¹ and its own related internal guidelines.

The Treasury Inspector General for Tax Administration (TIGTA) is required to determine annually whether NFTLs filed by the IRS comply with the legal guidelines set forth in the law.² We performed our audit work between November 2000 and May 2001. This audit was performed in accordance with *Government Auditing Standards*.

We visited the IRS National Headquarters, and the Baltimore, Maryland and Fort Lauderdale, Florida field offices to identify current lien filing procedures for complying with the provisions of the law and internal guidelines.

To determine if the IRS complied with the law, we:

- Obtained extracts of 137,258 lien notices generated nationwide on the Automated Lien System (ALS) between January 1 and August 31, 2000, to select a statistically valid sample of 167 lien notices.
- Obtained the certified mail listings (Postal Service Form 3877) from the field offices and compared the lien filed date to the mailed date to determine whether the IRS mailed the notices within 5 business days after the NFTLs were filed.
- Obtained case transcripts from the Automated Collection System (ACS) and case histories from the ALS, and researched the Integrated Collection System (ICS), the Integrated Data Retrieval System

¹ 26 U.S.C. § 6320 (Supp. IV 1998).

² 26 U.S.C. § 7803(d)(1)(A)(iii) (Supp. IV 1998).

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(IDRS), and Masterfile to verify the taxpayers' correct addresses and to determine if the taxpayers had spouses or business partners who required lien notification. A description of IRS computer systems used in the filing of liens is included in Appendix V.

To determine if the IRS complied with internal guidelines, we:

- Reviewed ACS transcripts and ALS histories, and researched the ICS, IDRS, and Masterfile for the sample cases to determine if copies of the lien due process notices were issued to the taxpayers' representatives.
- Discussed and reviewed the revised methodology and results of the most recent lien due process compliance review to determine if it provides an effective method to monitor and measure compliance with the law and related internal guidelines, and identifies causes and corrective actions.

Details of the audit objective, scope, and methodology are presented in Appendix I. Major contributors to this report are listed in Appendix II.

Background

When initial contacts by the IRS do not result in the successful collection of unpaid tax, the IRS has the authority to attach a claim to the taxpayer's assets for the amount of unpaid tax liabilities.³ This claim is referred to as a Federal Tax Lien.

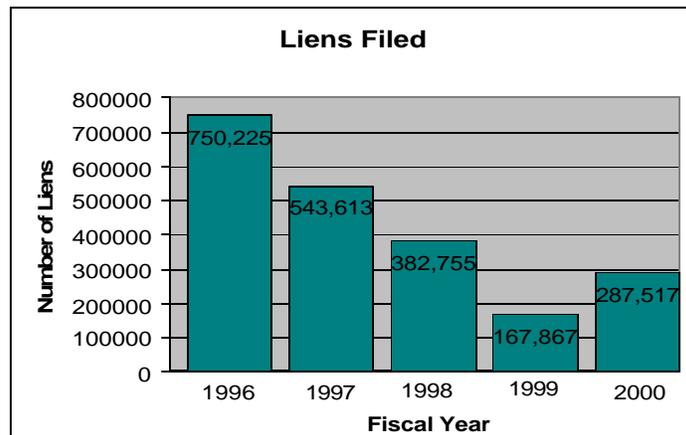
³ 26 U.S.C. § 6321 (1994).

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The 26 U.S.C. § 6320 requires the IRS to notify taxpayers in writing, within 5 business days, of the filing of a lien. The notice explains the right to request a hearing during the 30-day period beginning on the day after the 5-day notification period.

Since January 19, 1999, 26 U.S.C. § 6320 has required the IRS to notify taxpayers in writing within 5 business days of the filing of a NFTL. The Notice of Federal Tax Lien Filing and Your Right to a Hearing (lien due process notice) are used for this purpose. The law requires that the notice be given in person, left at the taxpayer's home or business, or sent certified or registered mail to the taxpayer's last known address. The notice must also explain, in simple terms, the amount of unpaid tax, the right to request a hearing during the 30-day period beginning on the day after the 5-day period described above, the administrative appeals available to the taxpayer, and the provisions of the law and procedures relating to the release of liens on property. A synopsis of the IRS collection and lien filing processes is included in Appendix VI.

The following chart shows the number of lien notices filed in the last 5 fiscal years. An IRS management official explained the increased lien activity in Fiscal Year (FY) 2000 is attributable to a change in the criteria for assigning ACS cases.



Source: IRS Collection 5000-23 Reports.

Results of Prior TIGTA Reviews

This is the third annual audit to determine if the IRS complied with legal requirements set forth in 26 U.S.C. § 6320. In FY 1999, the TIGTA reported that 33 percent of NFTLs reviewed involved

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potential violations of taxpayer rights.⁴ In FY 2000, the TIGTA reported that the IRS improved its compliance with legal requirements for notifying taxpayers when a lien has been filed; 4 percent of the lien notices reviewed did not comply with the law.⁵

Results

The IRS did not comply with all provisions of the law.

The IRS has not yet achieved full compliance with the law and its own internal guidelines. To achieve full compliance with the law and related internal guidelines, the IRS must mail all notices timely, notify taxpayers and their representatives of lien filings, process undelivered notices correctly, properly document actions taken in each case, and maintain supporting documentation of actions taken.

If the taxpayer is not notified that a lien notice has been filed, he or she might not be aware of the right to appeal. In addition, delays in mailing the notices can reduce the time taxpayers have to request a hearing to less than the 30-day period allowed by the law. These errors could result in potential violations of the taxpayer's rights should the taxpayer appeal the filing of the lien notice and the IRS deny the request for the appeal.

⁴ *The Internal Revenue Service Should Improve Its Federal Tax Lien Procedures* (Reference Number 1999-10-074, dated September 1999).

⁵ *Compliance With Requirements for Notifying Taxpayers of Federal Tax Lien Filings Has Not Yet Been Achieved* (Reference Number 2000-10-152, dated September 2000).

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The Internal Revenue Service Did Not Always Follow Legal Provisions and Its Own Guidelines for Filing Notices of Federal Tax Lien

TIGTA identified 14 cases with potential legal violations and 58 cases where employees did not comply with internal guidelines.

A review of 167 filed lien notices identified 14 cases (8 percent) with potential legal violations of taxpayers' rights. We estimate that similar taxpayer rights could have been potentially affected in 11,507 lien notifications from January 1 to August 31, 2000. Details of this estimate are presented in Appendix IV. The TIGTA also identified 58 cases (35 percent) in which IRS employees did not follow internal guidelines. Four cases involved both legal and internal guideline violations.

Legal provisions

The IRS issued notices informing taxpayers that a NFTL had been filed in 98 percent of the cases sampled.

The IRS issued notices informing taxpayers that a NFTL had been filed in 163 of 167 (98 percent) of the cases sampled. However, in 4 (2 percent) of the cases sampled, the IRS did not comply with all provisions of the law. This occurred as a result of employee errors. The four notices were either not mailed to the taxpayer, the taxpayer's spouse, or to the taxpayer's business partners; or were not mailed to the taxpayer's or spouse's last known address.

Employee errors contributed to the risk that potential violations of taxpayers' rights could occur. The IRS has substantially automated the lien notification process. However, certain information must be manually input into the ALS when requesting the lien due process notices, including the names of business partners and newfound addresses.

The IRS timely mailed lien notices to taxpayers in 93 percent of the cases sampled where the IRS provided proof of mailing.

In 135 of 145 (93 percent) of the cases reviewed where the IRS provided proof of mailing, the notices were mailed within 5 business days after the NFTL was filed.⁶ For the remaining 10 cases (7 percent), the notices were

⁶ For 22 of 167 cases reviewed, the IRS either did not mail the lien notices (4 cases) or did not provide proof of mailing (18 cases).

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late because they were not printed timely or were not mailed timely.

The IRS printed these notices 2 to 17 days late. This condition occurred during a time when the IRS had an unusual increase in the volume of liens filed during a 3-month time period. When the IRS revised the criteria for assigning ACS cases there was an increase in the number of NFTLs filed for a 3-month period. An IRS management official informed us that not all lien unit managers prepared adequately for the increase in volume and may not have devoted adequate resources to ensure that all lien notices were printed and mailed timely.

Internal guidelines

The IRS did not comply with internal guidelines in 35 percent of the cases sampled.

In 58 of 167 (35 percent) cases reviewed, the IRS did not always follow its internal guidelines when issuing lien notices. In 2 of the 58 cases, there were multiple violations of the internal guidelines.

- For 18 cases, the IRS could not provide proof of mailing. This happened when there were no certified mail listings on file, the listings were not date stamped to substantiate that notices were mailed to taxpayers, or the date on the listings was not legible. IRS procedures require the retention of the date stamped copy of the listings for 10 years after the end of the processing year.

The process for mailing the notices and obtaining the date stamp on the certified mail listings varies between offices. Some lien units take the certified mail listings and notices directly to the United States Postal Service for mailing while others rely on the IRS Mailroom Function to process the mail and obtain a date stamp on the listings.

- For 42 cases, neither the case histories nor the ALS database indicated that the taxpayer's representative was provided with a copy of the lien due process notice. IRS procedures require that a copy of the notice be sent to the taxpayer's representative when

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a NFTL is filed on the assets of a taxpayer he or she represents.

The ALS was modified in January 2000 to automatically generate a copy of the lien notice for the taxpayer's representative when the representative's name and address are input to the ALS. However, IRS employees are not following procedures, i.e., they are either not manually issuing the notice or they are not inputting this information into the ALS so that it can generate a lien notice to the taxpayer's representative.

Lien due process notification improvements

Since the FY 2000 report, Small Business and Self-Employed Compliance Division management has drafted guidelines to improve the lien notification process. Revenue Officers will be required to document in the case history when they request a lien due process notice for business partners, spouses, and taxpayers' representatives. In addition, field group managers are required to review case files for this documentation to ensure the appropriate notices are mailed.

These guidelines were not in place during the time period of the sample used for this audit. If these new guidelines are implemented, they should help ensure that employees follow procedures and that lien due process notices are issued to business partners, spouses, and taxpayers' representatives.

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Lien due process compliance review

In response to the FY 2000 report, the IRS modified its lien due process compliance review. The review was modified to include analyses to determine if the IRS notified business partners, spouses, and taxpayers' representatives of the filing of a NFTL, and to determine if undelivered mail was timely processed.

Using the new criteria, the IRS performed a review of NFTLs filed the last half of FY 2000 in four offices. The results, reported March 22, 2001, to the Director, Compliance Services, Small Business and Self-Employed Division, identified instances of noncompliance with both legal and internal guidelines similar to those in this report. The results of this review were also shared with the area directors over the four offices reviewed.

The revised compliance review provides an effective method to measure the IRS' compliance with the law and with its own internal guidelines. However, the IRS did not address either the specific causes of why established procedures were not followed or the planned actions to prevent similar problems, as the TIGTA had recommended in the FY 2000 report.

The IRS' revised lien due process compliance review is an effective measure of compliance with the law and internal guidelines, but the IRS needs to initiate corrective actions to correct deficiencies.

Recommendations

The Commissioner, Small Business and Self-Employed (SB/SE) Division, should:

1. Improve the effectiveness of the lien compliance review by identifying the cause of the noncompliance, by taking appropriate corrective actions, and by following up in subsequent reviews to monitor improvement in compliance.

Management's Response: SB/SE management agreed to improve the lien compliance review process by focusing on the cause of noncompliance for lien procedures and following up with field offices to improve compliance with the lien process by conducting training sessions for the lien unit managers. These sessions will focus on

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legal requirements of lien processing, use of the ALS, trends in noncompliance with the legal requirements, and corrective actions to take when noncompliance is identified.

2. Consult with the Office of the Chief, Counsel to identify any actions necessary to correct the potential legal violations that the TIGTA identified in this audit.

Management's Response: SB/SE management will consult with Chief Counsel to discuss any actions needed to correct the potential legal violations for the cases and issues identified in this report.

Conclusion

The IRS has not yet achieved full compliance with the law and its own internal guidelines. To help achieve full compliance, the IRS should improve the lien compliance review to determine the cause of any noncompliance so that appropriate actions can be taken.

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Appendix I

Detailed Objective, Scope, and Methodology

The objective of this audit was to determine if the Notices of Federal Tax Lien (NFTL) filed by the Internal Revenue Service (IRS) complied with legal requirements set forth in 26 U.S.C. § 6320¹ and its own related internal guidelines. A description of IRS computer systems used in the filing of lien notices is included in Appendix V.

To accomplish this objective, the Treasury Inspector General for Tax Administration completed the following tests.

- I. To follow up on issues identified in the prior mandatory review of NFTLs (undeliverable mail and notices issued to taxpayers business partners, spouses, and taxpayer representatives),² we discussed procedures with IRS National Headquarters personnel, reviewed related documents, and observed local procedures in the Baltimore, Maryland and Fort Lauderdale, Florida field offices. We judgmentally selected these sites based on travel costs and the results of the IRS March 2000 Lien Compliance Review.
- II. To determine whether NFTLs filed by the IRS complied with legal requirements set forth in the law, we:
 - A. Obtained from the IRS an extract of 137,258 NFTLs prepared by the IRS nationwide on the Automated Lien System (ALS) between January 1 and August 31, 2000. We eliminated the refiled NFTLs since they do not require the issuance of a notice to the taxpayer.
 - B. Selected a statistically valid sample of 167 NFTLs for review from the extract in II.A. We used attribute sampling and the following formula to calculate the minimum sample size (n) of 164:

$$n = (NZ^2p(1-p))/(NE^2+Z^2p(1-p))$$

N = Population (137,258 Lien notices)

Z = Desired Confidence Level (95 percent)

p = Expected Error Rate (4 percent)

E = Precision Level (3 percent)

¹ 26 U.S.C. § 6320 (Supp. IV 1998).

² *Compliance With Requirements for Notifying Taxpayers of Federal Tax Lien Filings Has Not Yet Been Achieved* (Reference Number 2000-10-152, dated September 2000).

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- C. Verified the accuracy of the Baltimore and Fort Lauderdale sample extract data by comparing the extract information to the ALS online information in the Baltimore and Fort Lauderdale field offices. During the case reviews, we also verified the accuracy of the extract data by comparing the extract information for the sample cases to the information in the Automated Collection System (ACS), Integrated Collection System (ICS), Integrated Data Retrieval System (IDRS), and the ALS prints of lien notices.
 - D. Requested certified mail listings (Postal Service Form 3877) from the field offices for the sample cases identified in II.B and compared the lien notice filing (ALS print) dates to the dates on the certified mail listings to calculate if the notices were mailed within 5 business days after the NFTL had been filed.
 - E. Analyzed 167 lien notices by reviewing ACS transcripts and ALS histories or researching the ICS, the IDRS, and the Masterfile to determine if the lien due process notices were issued to taxpayers, business partners, spouses, and mailed to the correct addresses.
 - F. Contacted the Treasury Inspector General for Tax Administration Counsel to verify potential legal violations.
 - G. Provided exception cases to National Headquarters for agreement to potential violations to determine the reason or cause for any delays or errors.
- III. To determine whether the IRS followed its own internal guidelines, we used the lien notices selected from the statistically valid sample in II.B and:
- A. Researched the ACS, ICS, IDRS, and Masterfile to determine if taxpayers had representatives and if the representatives were provided a copy of the lien notice.
 - B. Determined if the IRS retained copies of the certified mail listings.
- IV. To determine whether the revised lien due process compliance review provided an effective method to monitor and measure compliance with the law and related internal guidelines, and identifies causes and corrective actions, we discussed the methodology with the appropriate IRS staff and analyzed the March 2001 results.

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Appendix II

Major Contributors to This Report

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Appendix III

Report Distribution List

Commissioner N:C
Commissioner, Wage and Investment Division W
Chief Counsel CC
National Taxpayer Advocate TA
Director, Compliance, Small Business and Self-Employed Division S:C
Director, Compliance, Wage and Investment Division W:CP
Director, Customer Account Services, Small Business and
Self-Employed Division S:CAS
Director, Customer Account Services, Wage and Investment Division W:CAS
Director, Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis N:ADC:R:O
Office Management Controls N:CFO:F:M
Audit Liaisons: Small Business and Self-Employed Division C:C:CP
Wage and Investment Division W

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Appendix IV

Outcome Measures

This appendix presents detailed information on the measurable impact that the recommended corrective actions will have on tax administration. These benefits will be incorporated into the Treasury Inspector General for Tax Administration's Semiannual Report to the Congress.

Type and Value of Outcome Measure

- Taxpayer Rights and Entitlements – Potential; 11,507 lien notifications with legal violations of taxpayers' rights (see page 5).

Methodology Used to Measure the Reported Benefit

From the nationwide statistically valid sample of 167 Federal Tax Lien cases, we identified 14 (8 percent) cases with potential legal violations of taxpayers' rights. We projected the findings to the total population of 137,258 lien notices prepared on the Automated Lien System between January 1 and August 31, 2000. We estimated that similar taxpayer rights could have been potentially affected in 11,507 lien notifications (14/167 x 137,258 population). We are 95 percent confident that the range of taxpayer cases affected by similar rights is between 5,723 to 17,290. Taxpayer rights could be potentially affected because the taxpayer not receiving a notice or receiving a late notice might not be aware of the right to appeal or have less than the 30-day period allowed by the law to request a hearing. In addition, taxpayer rights could be potentially affected when the taxpayer appeals the filing of the lien and the Internal Revenue Service denies the request for the appeal.

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Appendix V

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

The Automated Lien System (ALS) is a comprehensive database that prints lien notices, stores taxpayers' information, and documents all lien activity. Lien activities on both the Integrated Collection System and the Automated Collection System cases are controlled on the ALS by Technical Support or Case Processing functions in field offices. Employees in these offices process lien notices and respond to taxpayer inquiries using the ALS.

The Integrated Collection System (ICS) is a field office computer system with applications designed around each of the main collection tasks, such as opening a case, assigning a case, building a case, performing collection activity, and closing a case. The ICS is designed to provide management information, create and maintain case histories, generate documents, and allow on-line approval of case actions. Lien requests made using the ICS are uploaded to the ALS. The ALS generates the lien notices and updates the Internal Revenue Service's (IRS) primary computer files to indicate that a lien notice has been filed.

The Automated Collection System (ACS) is a computerized call site inventory system that maintains balance due accounts and return delinquency investigations. The ACS employees enter all of their case file information (on-line) on the ACS. Lien notices requested using the ACS are uploaded to the ALS, which generates the lien due process notices and updates the IRS' primary computer files to indicate that a lien has been filed.

The Integrated Data Retrieval System (IDRS) is an on-line data retrieval and data entry system that processes transactions entered from terminals located in both service centers and field offices. The system enables employees to perform such tasks as researching account information, requesting tax returns, entering collection information, and generating collection documents. The IDRS serves as a link from service center and field offices to the Masterfile in order for the IRS to maintain accurate records of activity on taxpayers' accounts.

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

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Appendix VI

Synopsis of the Internal Revenue Service Collection and Lien Filing Processes

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

- IRS employees who make personal (face-to-face) contact with taxpayers are called revenue officers and work in the IRS field offices. The computer system used in most of the field offices to track collection actions taken on taxpayer accounts is called the Integrated Collection System (ICS).
- IRS employees who make only telephone contact with taxpayers work in call sites in IRS Customer Service offices. The computer system used in the call sites to track collection actions taken on taxpayer accounts is called the Automated Collection System (ACS).

When these efforts have been taken and the taxpayer has not paid the tax liability, designated IRS employees are authorized to file a Notice of Federal Tax Lien (NFTL). Liens protect the government's interest by attaching a claim to the taxpayer's assets for the amount of unpaid tax liabilities. The right to file a NFTL is created by 26 U.S.C. § 6321 (1994) when:

- The IRS has made an assessment and given the taxpayer notice of the assessment, stating the amount of the tax liability and demanding payment.
- The taxpayer has neglected or refused to pay the amount within 10 days after the notice and demand for payment.

When designated employees request the filing of a NFTL using either the ICS or the ACS, the lien notice requests from both systems are transferred to the Automated Lien System (ALS). All NFTLs are processed by the ALS unless there is an expedite situation, in which case the lien notice is manually prepared. Although they are manually prepared, manual lien notices are tracked and controlled on the ALS. The ALS maintains an electronic database of all open NFTLs and updates the IRS primary computer records to indicate that a lien notice has been filed.

Most NFTLs are mailed to taxpayers by certified or registered mail rather than being delivered in person. To maintain a record of the notices, the IRS prepares a certified mail listing (Postal Service Form 3877) which identifies each notice that is to be mailed. The

**Full Compliance With Requirements for Notifying Taxpayers of Federal
Tax Lien Filings Has Not Yet Been Achieved**

notices and a copy of the certified mail listing are delivered to the United States Postal Service. A postal employee ensures that all notices are accounted for, then date stamps the listing and returns a copy to the IRS. The stamped certified mail listing is the only documentation the IRS has that certifies the date the notices were mailed. IRS guidelines require that the stamped certified mail listing be retained for 10 years after the end of the processing year.

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Appendix VII

Management's Response to the Draft Report



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

SMALL BUSINESS/SELF-EMPLOYED DIVISION

JUL 30 2001

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Joseph G. Kehoe *Joseph G. Kehoe*
Commissioner, Small Business/Self-Employed

SUBJECT: Draft Audit Report – Full Compliance With Requirements
For Notifying Taxpayers of Federal Tax Lien Filings Has
Not Yet Been Achieved

Thank you for the opportunity to review and comment on the subject draft report. Your report recognized our major improvements in the lien program. For example, in FY 2000, 96% of the lien notices reviewed met legal requirements. We will continue to monitor and improve the lien program.

We validated your findings and agree with your recommendations. The following summarizes your findings on the cases reviewed:

- Four cases showed we did not mail notices to the taxpayer, taxpayer's spouse, business partner or did not mail notices to the last known address.
- Ten cases found that the IRS notified taxpayers of their appeal rights but failed to do so within the proper timeframe.
- Sixty cases showed we did not follow established procedures to ensure the taxpayer's representative received a copy of the notice or to retain a file a copy of the stamped receipt of the postal listing.

Our responses to the recommendations in this report are as follows:

IDENTITY OF RECOMMENDATION 1

Improve the effectiveness of the lien compliance review by identifying the cause of the noncompliance, by taking appropriate corrective actions, and by following up in subsequent reviews to monitor improvement in compliance.

ASSESSMENT OF CAUSE

The Technical and Insolvency office conducted a collection due process review in March of this year. They found similar instances of noncompliance and reported them to the appropriate area directors. However, we did not return the identified cases for corrective actions, document the cause for the potential violation, or provide recommendations to correct the instances of noncompliance.

OFFICE OF TREASURY
INSPECTOR GENERAL
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FEDERAL TAX ADMINISTRATION

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The failure to provide this additional information to the area directors was an oversight on our part. We will ensure future reviews document the potential violation, assessment of cause, and the recommended corrective actions.

CORRECTIVE ACTIONS

To improve the process, SB/SE will focus on the cause of noncompliance for lien procedures. We will also continue to follow-up with field offices to improve compliance by conducting training sessions for the lien unit managers. These sessions will focus on legal requirements of lien processing, use of the Automated Lien System, trends in noncompliance with the legal requirements, and corrective actions to take when we identify noncompliance.

IMPLEMENTATION DATE

January 1, 2002

RESPONSIBLE OFFICIAL

Director, Filing and Payment Compliance, Small Business/Self-Employed

CORRECTIVE ACTION MONITORING PLAN

The appropriate functional staff will inform the Director, Filing and Payment Compliance of any delay in completing the corrective action.

IDENTITY OF RECOMMENDATION 2

Consult with Chief Counsel to identify any actions necessary to correct potential legal violations identified in the TIGTA audit.

ASSESSMENT OF CAUSE

We have not secured legal guidance from Chief Counsel on these possible legal violations.

CORRECTIVE ACTION

As a standard practice, SB/SE consults with Chief Counsel on cases involving potential legal violations. We will review the cases and issues identified in the report with Chief Counsel to discuss any actions needed to correct the potential legal violations.

IMPLEMENTATION DATE

October 1, 2001

RESPONSIBLE OFFICIAL

Director, Filing and Payment Compliance, Small Business/Self-Employed

**Full Compliance With Requirements for Notifying Taxpayers of Federal
Tax Lien Filings Has Not Yet Been Achieved**

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CORRECTIVE ACTION MONITORING PLAN

The appropriate functional staff will inform the Director, Filing and Payment Compliance of any delay in completing the corrective action.

If you have any questions, please call Martha Sullivan, Deputy Director, Compliance Policy, Small Business/Self-Employed, at 202-622-5563.