



**The Internal Revenue Service Has Taken
Significant Actions, but Increased Oversight
Is Needed to Fully Implement the
Uniform Asset Disposal Mechanism**

November 2001

Reference Number: 2002-10-005

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DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

November 26, 2001

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED
DIVISION

FROM: Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Audit Report - The Internal Revenue Service Has Taken
Significant Actions, But Increased Oversight Is Needed to Fully
Implement the Uniform Asset Disposal Mechanism
(Audit # 200110017)

This report presents the results of our review to determine if the uniform asset disposal mechanism (UADM) implemented by the Internal Revenue Service (IRS) complies with the IRS Restructuring and Reform Act of 1998 (RRA 98)¹ Section (§) 3443 for sales under 26 U.S.C. § 6335 (1994 and Supp. IV 1998)² and if controls provide for the accountability and security of assets before the sale.

In summary, we found that Small Business/Self-Employed (SB/SE) Division management has taken significant actions toward implementing the program changes to comply with RRA 98 § 3443. However, although the UADM was established by July 22, 2000, several issues still remain to be addressed before the IRS will be in full compliance with RRA 98 § 3443. We found that revenue officers participated in activities related to the sale of property seized from taxpayers in 3 of 26 seizures reviewed. RRA 98 § 3443 does not specifically define when revenue officer involvement in the sale process must end. As a result, we were unable to determine if these actions were potential violations of RRA 98 § 3443. Additionally, the Property Appraisal and Liquidation Specialists (PALS) delayed receiving custody of seized

¹ Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 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.).

² The 26 U.S.C. § 6335 (1994 and Supp. IV 1998) contains procedures for the sale of seized property, including proper notice and advertising.

property from revenue officers, or the PALSs' disposition of the property was delayed, in 5 of 26 seizures reviewed.

Management's Response: SB/SE Division management agreed to take appropriate action for the recommendations in this report, including discussing with Chief Counsel the three cases we identified with potentially prohibited activities, taking action based on Counsel's advice on the cases, and updating program guidelines if necessary. Revenue officers will be instructed to only execute their authorized case-resolution roles at sales, their managers will be instructed to provide appropriate oversight to ensure that RRA 98 § 3443 is not violated, and Compliance management will review cases to ensure inappropriate actions are not taken. To improve oversight of the PALSs, a new first-line manager's position will be created, and yearly operational reviews of the PALSs' group manager will be executed.

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 Daniel R. Devlin, Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations), at (202) 622-8500.

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Background

Prior to the enactment of the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98),¹ the IRS employees (revenue officers) who seized taxpayers' property for the payment of taxes were also responsible for selling the property. To promote fairness and the appearance of propriety, the Congress wanted to remove revenue officers from personal involvement in the sale of seized property. RRA 98 Section (§) 3443 required the IRS to implement a uniform asset disposal mechanism (UADM) by July 22, 2000, for sales of seized property under 26 U.S.C. § 6335 (1994 and Supp. IV 1998).² The Treasury Inspector General for Tax Administration reported in Fiscal Year (FY) 2000 that the IRS had established the UADM by July 22, 2000.³ Following the IRS reorganization on October 1, 2000, Small Business/Self-Employed (SB/SE) Division employees became responsible for the seizure and sale of all taxpayer property.⁴

This audit was performed in the SB/SE Division between March and August 2001. It was conducted in accordance with *Government Auditing Standards*. We did not determine if the IRS followed provisions in 26 U.S.C. §§ 6330 through 6334 (1994 and Supp. IV 1998), which provide specific guidelines as to how seizure-related activities should be conducted. We previously addressed compliance with the legal provisions in our statutory audit

¹ Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 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.).

² The 26 U.S.C. § 6335 (1994 and Supp. IV 1998) contains procedures for the sale of seized property, including proper notice and advertising.

³ *The Internal Revenue Service Has Significantly Improved Compliance With Legal and Internal Guidelines When Seizing Taxpayers' Property* (Reference Number 2000-10-114, dated August 2000).

⁴ SB/SE Division employees perform seizure and sale responsibilities for the Large and Mid-Size Business, Wage and Investment, and SB/SE Divisions.

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of seizures.⁵ Detailed information on our audit objectives, scope, and methodology are presented in Appendix I. Major contributors to the report are listed in Appendix II.

SB/SE Division management has taken significant actions toward implementing the program changes to comply with RRA 98 § 3443. A new position, Property Appraisal and Liquidation Specialist (PALS), was created and has the responsibility for managing and disposing of property after it is seized by revenue officers. The PALS serves as the technical authority in appraising property proposed for seizure and is responsible for planning, marketing, and coordinating the sale of the property. The PALS also has the authority to outsource the disposal of seized property after considering the best interests of the government and the taxpayer. In addition, the SB/SE Division management accomplished the following:

- Filled 14 of the 15 new PALS positions. The PALSs were trained and began working in their new positions on Monday, July 24, 2000.
- Revised its seizure and sale guidelines to include the responsibilities of the PALS.
- Developed a Seizure Readiness Guide and a related training course to assist employees in understanding the changes required by RRA 98 § 3443 and the role of the PALS.
- Initiated plans to upgrade the Integrated Collection System (ICS) to improve monitoring and accounting for seized assets.
- Developed a plan to restructure the management of the PALS program, including the creation of a GS-1171 first-line PALS manager position.

To help establish their role within the IRS, some PALSs have made presentations at seminars and staff meetings to

⁵ *Letter Report: The Internal Revenue Service Complied With Legal and Internal Guidelines When Seizing Property for Payment of Tax* (Reference Number 2001-10-061, dated May 2001).

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explain their responsibilities, promote their services, and address any concerns about the seizure and sale process. The IRS also established a website for the PALSs to advertise the sale of seized assets to the public. Although the UADM was established by July 22, 2000,⁶ several issues remain to be corrected before the IRS will be in full compliance with RRA 98 § 3443. We determined that additional management oversight is needed to identify and correct weaknesses related to the implementation of RRA 98 § 3443.

Revenue officers participated in sales-related activities

Revenue officers participated in activities related to the sale of property seized from taxpayers in 3 of the 26 seizures reviewed. These three seizures included the following activities:

- The revenue officer performed marketing activities, such as posting notices of the sales of seized assets and speaking to potential bidders about upcoming sales and bids.
- The PALS revised the minimum bid amount and the revenue officer solicited the taxpayer's agreement.
- The revenue officer attended the sale, and with the PALS, initiated a discussion with the taxpayer about the taxpayer's intent to bid on the property on behalf of a family member who was interested in purchasing the taxpayer's seized property.

Although RRA 98 § 3443 requires that the UADM remove revenue officers from any participation in the sale of seized property, it does not specifically define where revenue officer involvement in the process must end. Accordingly, it is not always clear when revenue officer involvement would be considered sales activity. As a result, we were

⁶ SB/SE Division management had taken action to implement the UADM by Saturday, July 22, 2000, as required by RRA 98 § 3443. The PALSs did not begin working until Monday, July 24, 2000.

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unable to determine if these actions were violations of RRA 98 § 3443.

SB/SE Division management attempted to clarify the intent of RRA 98 § 3443 when implementing the UADM. The following guidance was provided:

- In July 1999, the IRS Chief Counsel provided the opinion that revenue officer involvement in the sale should cease after the notice of seizure has been provided to the taxpayer as required by 26 U.S.C. § 6335(a) (1994 and Supp. IV 1998) and that no revenue officer may assist or be present at the sale. Counsel interpreted “involvement in the sale” to include determining minimum bid; setting the time, place, and manner of the sale; deciding how seized property will be grouped for sale; and providing notice of sale.
- In July 2000, the former IRS Assistant Commissioner (Collection) issued a memorandum stating that employees who seize assets may no longer take actions related to the sale of seized assets, including preparing and delivering the minimum bid and notice of sale, advertising the property, and attending or assisting in the actual sale.
- In December 2000, at the request of SB/SE Division management, the IRS Chief Counsel further clarified its July 1999 opinion regarding revenue officer presence at the sale. Counsel advised that revenue officers could attend the sale but only to assist when taxpayers propose alternative collection methods, such as offers in compromise or installment agreements.

The IRS Chief Counsel cautioned that “permitting a revenue officer to attend a sale leaves the Service vulnerable to charges that it is violating the spirit, if not the letter, of the law—that the presence of a revenue officer at the sale gives the appearance of impropriety.” Counsel advised IRS management that if practical considerations necessitate the presence of revenue officers at sales, steps should be taken to mitigate the appearance of impropriety and to re-emphasize to revenue officers that their presence at sales

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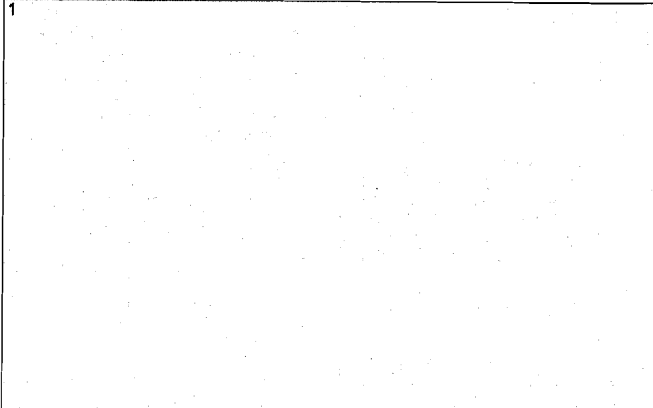
is limited to helping taxpayers address alternative collection methods.

If any of the three cases with revenue officer participation in sales-related activities represent a violation of the law, the sale of the property could be invalid. The IRS Chief Counsel advised that a taxpayer could argue that a violation of RRA 98 § 3443, such as a revenue officer's participation in the sale of seized property, is a violation of a Congressionally-mandated requirement and the sale is invalid.

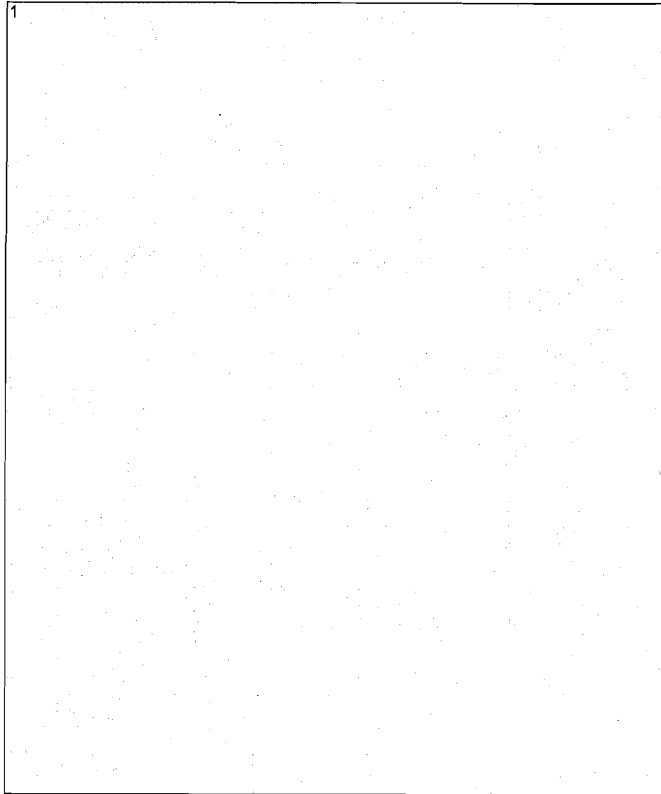
PALSs delayed receiving and disposing of seized property

The PALS delayed receiving custody of seized property from revenue officers, or the PALS' disposition of the property was delayed, in 5 of 26 seizure cases reviewed. The IRS does not have a time guideline for transferring seized property from the revenue officer to the PALS for sale of the assets. However, internal guidelines state that the transfer should be made as quickly and efficiently as possible to minimize expenses and to maximize net proceeds.

Both PALSs that we interviewed advised that their inventory of seized property had grown in recent months. This growth contributed to the delays in disposing of the property. We observed the following instances in the offices visited:

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- In 3 seizures, the PALS delayed obtaining custody of the property from the revenue officer for between 25 and 40 days. The PALS submitted a memorandum for all three seizures, as required, advising SB/SE management that the delay was due to workload and when the transfer of custody would take place. The seizures involved personal property and no additional storage expenses were incurred due to the delay.

One of the PALS we interviewed advised that each case currently in inventory involved at least one instance of delay in receiving custody of seized assets from revenue officers, issuing of the minimum bid worksheet, or issuing notice of sale to the taxpayer. The PALS is assigned to work cases in Central and Northern California and, due to the resignation of another PALS, is also detailed to work the Area office

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that includes the states of Alaska, Idaho, Washington, Oregon, and Hawaii.

Both PALSs reported that their increased workloads were intensified with the amount of travel required to perform their duties. The PALSs are expected to travel frequently to locations within their geographical area of coverage to appraise the property, research courthouse records, consult with revenue officers, oversee vendor performance, safeguard assets, conduct inventory checks, and sell the property.

The concerns that we identified occurred at a vulnerable time within the IRS. The implementation of the UADM occurred at the same time the IRS was undergoing a major reorganization, and there was no consistent management structure in place to provide oversight of the UADM.

When the UADM was implemented on July 22, 2000, the PALSs reported to their former Collection Division Chief or former Regional Chief Compliance Officer. Following the IRS' reorganization on October 1, 2000, the SB/SE Division became responsible for the seizure program, including revenue officers and the PALSs. The PALSs were scheduled to report to the newly created Compliance Technical Support Managers (TSMs). However, not all of the TSMs were hired by the time the SB/SE Division Area offices were created October 1, 2000. As of November 30, 2000, only 6 of the 15 TSM positions were in place. The two TSMs for the Area offices we reviewed were not hired until January and February 2001, respectively.

SB/SE Division management became aware of the PALSs' increased inventory and discussed the issue during a PALS meeting held in March 2001. SB/SE Division management has approved the following:

- Establishment of two new first-line PALS managerial positions. The new managers will provide increased oversight for all PALSs and will also be able to better coordinate PALSs' activities and distribute their

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workload. The TSMs will no longer be responsible for directly managing the PALSs.

- Hiring of additional PALSs as inventory growth warrants.

SB/SE Division management does not have an automated method for managers to provide oversight of seizure and sale activity outside of their geographical area. The two PALSs we interviewed reported to the TSMs, who relied on telephone discussions, e-mail, and briefings provided by the PALSs to advise them of their inventories and any related concerns.

The ICS is an on-line system used to establish controls over collection cases. Because the ICS uses the same computer system as the IRS service centers, it is fully accessible only when the IRS employee is located within the same geographical area covered by the service center. The PALS could have used the ICS control bases to document case history information, although the information could not have been accessed by TSMs to provide oversight of the PALSs' activity unless the TSMs and the PALSs were located in the same geographical area. However, one PALS did not know how to use the ICS to control case inventories and did not document case actions on ICS. As of May 2001, the two TSMs we interviewed had not performed any formal reviews of actual cases or of history information entered on the ICS by the one PALS we interviewed who used the system.

In October 2001, SB/SE Division management plans to begin consolidating the ICS into one national database to provide improved inventory control and case accessibility. Completion is scheduled for January 2002. SB/SE management also plans to upgrade the ICS to allow for the creation of seizure and sale management reports. The upgrade is intended to improve monitoring for seizures and sales. However, there is no completion date for the upgrade due to other priority work of computer programmers.

The lack of oversight of revenue officers and PALSs contributed to revenue officers continuing to participate in

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activities related to the sale of seized property and of delays in PALSs receiving and disposing of seized property. Delays in the disposal of seized property can result in increased expenses and also affect the amount of net proceeds from the sale.

Recommendations

1. SB/SE management should request that the IRS Chief Counsel review the potentially prohibited activities we identified in the three seizure cases. If Counsel determines that these were violations of law, SB/SE management should take appropriate action on the cases and should update the program guidelines to prevent similar violations of RRA 98 § 3443 in future cases.

Management's Response: The Director, Filing and Payment Compliance, will discuss with Chief Counsel the potentially prohibited activities, take action based on Counsel's advice on these cases, and update program guidelines as necessary.

2. SB/SE revenue officer first-line managers should provide increased oversight to ensure that revenue officers, while executing their legitimate case resolution role at sales, are not involved in sales-related activities that violate RRA 98 § 3443.

Management's Response: SB/SE management will issue a memorandum emphasizing that revenue officers need to ensure that they are executing only their authorized case-resolution role at sales and that managers should provide the appropriate oversight on these cases to ensure revenue officers are not violating RRA 98 § 3443. The Office of Filing and Payment Compliance will review seizure cases during the mandatory audit to ensure revenue officers are not taking inappropriate actions on these cases.

3. SB/SE PALSs first-line managers should provide increased oversight to improve proper workload management and overall inventory coordination.

Management's Response: SB/SE management instructed PALSs' managers to maximize cross-area PALS assistance

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and open vacancy rosters in areas where additional staff is needed. SB/SE management received approval to establish a PALS first-line manager position so they can improve the focus on inventory management.

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Appendix I

Detailed Objectives, Scope, and Methodology

The overall objectives of this review were to determine if the uniform asset disposal mechanism (UADM) implemented by the Internal Revenue Service (IRS) complies with the IRS Restructuring and Reform Act of 1998 (RRA 98)¹ Section (§) 3443 for sales under 26 U.S.C. § 6335 (1994 and Supp. IV 1998)² and if controls provide for the accountability and security of assets before the sale. To accomplish these objectives, we completed the following work:

- I. Identified current national guidelines and local procedures for achieving compliance with RRA 98 § 3443 provisions.
 - A. Interviewed appropriate National Headquarters employees and selected Small Business/Self-Employed (SB/SE) Division Compliance employees and identified current Property Appraisal and Liquidation Specialist (PALS) procedures for controlling, safeguarding, and disposing of seized assets.
 - B. Interviewed appropriate National Headquarters employees and identified any training that has been or will be provided to the PALSs and their managers regarding the UADM.
 - C. Interviewed SB/SE Division Compliance employees and identified tools for ensuring proper accountability, safeguarding, and timely disposition of seized assets.
- II. Determined if the implementation of the UADM removed revenue officers from personal involvement with the sale of seized assets.
 - A. Identified 18 seizures made nationwide during Fiscal Year (FY) 2000 that were open as of July 22, 2000.
 1. Identified the Compliance Area office with the highest seizure activity and selected all 6 seizures performed in Area office 10.
 2. Obtained and reviewed seizure case files and related documentation.

¹ Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 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.).

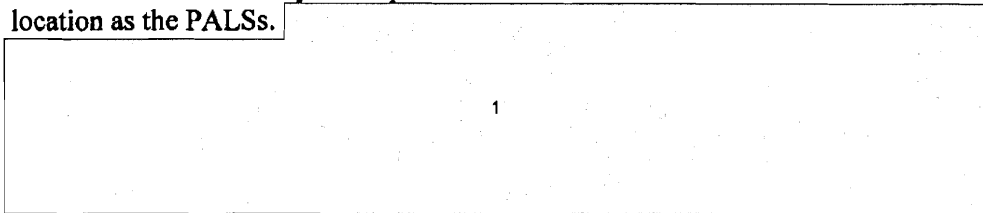
² The 26 U.S.C. § 6335 (1994 and Supp. IV 1998) contains procedures for the sale of seized property, including proper notice and advertising.

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- a) Determined the length of time it took for the revenue officer to transfer custody of the asset to the PALS.
 - b) Determined if the revenue officer ceased to participate in the sale of the asset after July 22, 2000.
- B. Identified 82 seizures made nationwide after July 22, 2000, and prior to February 7, 2001.
 - 1. Judgmentally selected SB/SE Division Compliance Area offices 10, 12, and 13 because they had a high volume of seizure cases assigned to PALSs. We selected a sample of 20 of the 34 seizures performed in these Area offices and included seizures that consisted of personal property (in lieu of real property).
 - 2. Obtained and reviewed seizure case files and related documentation and determined the following:
 - a) Length of time it took for the revenue officer to transfer custody of the asset to the PALS.
 - b) If the PALS performed all tasks related to advertising and marketing the property.
 - c) If the PALS properly computed, documented, and delivered the final Minimum Bid Worksheet (Form 4585) and Notice of Public Auction Sale (Form 2434) to the taxpayer.
 - d) If the revenue officer was personally involved (had any participation) in the sale of the seized asset.
 - e) If there were delays during the seizure and sale process caused by the PALS due to other priorities, including inventory volume, travel, or other factors.
- III. Determined if the UADM provides for accountability and security of seized assets while they are in the IRS' possession.
 - A. Determined, through discussion and review of documentation, how the PALSs account for seized assets in their possession.
 - 1. Identified procedures used by the PALSs to control seized assets and identified their concerns, if any.
 - 2. Determined how the PALSs documented involvement in the seizure and sale process.
 - 3. Determined if the PALSs maintained any records of seized assets in their possession that would allow for inventory control, accounting, and monitoring of the asset from seizure through disposition.

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4. Determined if there was communication between the PALSs and the Compliance Technical Support Managers (e.g., managerial reviews, status reports, on-site visits, etc.).
 5. Determined if the PALSs had experienced any problems with revenue officers in regards to pre-seizure determinations, transfer and inventorying of assets, participating in the sale, etc.
 6. Determined if the PALSs workloads and travel resulted in delays in the seizure and sale process of prior, current, or proposed seizures.
- B. Interviewed the two Compliance Technical Support Managers in Area offices 10 and 12 to determine his or her oversight over the PALSs.
1. Determined if the manager maintained any management reports or manual record keeping of seized assets in the PALSs' or revenue officers' possession that would allow for inventory control, accounting, and monitoring of assets from seizure through disposition.
 2. Determined if the manager displayed oversight over the PALSs via field visits, workload reviews, performance reviews, and reviews of U.S. Government Purchase - Invoices - Voucher (Form 6888), if applicable.
 3. Determined if the manager had issued any local procedures to the PALSs regarding the seizure and sale process.
- C. Identified assets currently in the possession of the IRS that were stored at the same location as the PALSs.



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Appendix II

Major Contributors to This Report

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Appendix III

Report Distribution List

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Audit Liaison:

 Director, Compliance, Small Business/Self-Employed Division S:C

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Appendix IV

Management's Response to the Draft Report



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

OCT 11 2001

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

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

SUBJECT: Draft Audit Report – The Internal Revenue Service Has Taken Significant Actions, But Increased Oversight Is Needed to Fully Implement the Uniform Asset Disposal Mechanism (200110017)

We have taken steps to increase the managerial oversight of the Uniform Asset Disposal Mechanism, such as including the creation of a first-line Property Appraisal and Liquidation Specialist (PALS) manager position.

Our comments on the recommendations in this report are as follows:

IDENTITY OF RECOMMENDATION 1

SB/SE management should request that the IRS Chief Counsel review the potentially prohibited activities we identified in the three seizure cases. If Counsel determines that these were violations of law, SB/SE management should take appropriate action on these cases and should update the program guidelines to prevent similar violations of RRA 98 § 3443 in future cases.

ASSESSMENT OF CAUSE

The Treasury Inspector General for Tax Administration (TIGTA) indicated that revenue officers might have violated RRA 98 § 3443 by taking certain sale-related actions.

CORRECTIVE ACTION

The Director, Filing and Payment Compliance, will discuss with Chief Counsel the potentially prohibited activities that were identified in this audit. After discussing these issues, managers and analysts of the Director's staff will take action based on Counsel's advice on these cases, and update program guidelines as necessary.

IMPLEMENTATION DATE

January 1, 2002

RESPONSIBLE OFFICIALS

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

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CORRECTIVE ACTION MONITORING PLAN

The functional managers will inform the Director, Filing and Payment Compliance, of any delays in completing the corrective action.

IDENTITY OF RECOMMENDATION 2

SB/SE revenue officer first-line managers should provide increased oversight to ensure that revenue officers, while executing their legitimate case resolution role at sales, are not involved in sales-related activities that violate RRA 98 § 3443.

ASSESSMENT OF CAUSE

Revenue officer first-line managers did not provide sufficient oversight to ensure that revenue officers were not involved in sales-related activities that were prohibited by RRA 98 § 3443.

CORRECTIVE ACTION

SB/SE management will issue a memorandum emphasizing that revenue officers need to ensure that they are only executing their authorized case-resolution role at sales, and that managers should provide the appropriate oversight on these cases to ensure revenue officers are not violating RRA 98 § 3443. The Office of Filing and Payment Compliance will review seizure cases during the mandatory audit by TIGTA to ensure revenue officers are not taking inappropriate actions on these cases.

IMPLEMENTATION DATE

January 1, 2002

RESPONSIBLE OFFICIALS

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

CORRECTIVE ACTION MONITORING PLAN

The analysts and managers of Filing and Payment Compliance will inform the Director, Filing and Payment Compliance, of any delays in completing the corrective action.

IDENTITY OF RECOMMENDATION 3

SB/SE PALS first-line managers should provide increased oversight to improve proper workload management and overall inventory coordination.

ASSESSMENT OF CAUSE

PALS management did not provide enough oversight of the inventory and workload of the PALS.

CORRECTIVE ACTION

SB/SE management issued instructions to the managers of the PALS requesting they maximize cross-area PALS assistance and open vacancy rosters in areas where additional staff is needed. In addition, we received approval to establish a PALS first-line manager position. The sole responsibility of these managers will be management of the PALS program, so they can improve the focus on inventory management. After

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the groups are formed, we expect the respective Technical Support Manager to whom each PALS manager reports to execute yearly operational reviews of the PALS group manager's performance of inventory management duties.

IMPLEMENTATION DATE
Completed September 5, 2001

RESPONSIBLE OFFICIALS
Director, Specialty Tax and Technical Support, Small Business/Self-Employed

CORRECTIVE ACTION MONITORING PLAN
N/A

If you have any questions, please call Martha Sullivan, Deputy Director Compliance Policy, Small Business/Self-Employed, at (202) 283-2144.