



Treasury Inspector General for Tax Administration Office of Audit

FISCAL YEAR 2010 REVIEW OF COMPLIANCE WITH LEGAL GUIDELINES WHEN CONDUCTING SEIZURES OF TAXPAYERS' PROPERTY

Issued on May 7, 2010

Highlights

Highlights of Report Number: 2010-30-049 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

IMPACT ON TAXPAYERS

To ensure taxpayers' rights are protected, the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 amended the seizure provisions in Internal Revenue Code Sections 6330 through 6344 (1994 & Supp. IV 1998). The IRS did not always comply with these statutory requirements. Although we did not identify instances in which taxpayers were adversely affected, noncompliance with Internal Revenue Code requirements could result in abuses of taxpayers' rights.

WHY TIGTA DID THE AUDIT

TIGTA is required under Internal Revenue Code Section 7803(d)(1)(A)(iv) (Supp. IV 1998) to annually evaluate the IRS' compliance with the legal seizure provisions to ensure that taxpayers' rights were not violated while seizures were being conducted.

WHAT TIGTA FOUND

The collection of unpaid tax by the IRS generally begins with letters to the taxpayer followed by telephone calls and personal contacts by an IRS employee. The employees who make personal contact are referred to as revenue officers. They consider the taxpayer's ability to pay the tax and discuss alternatives, such as an installment agreement or an offer in compromise. If these actions have been taken and the taxpayer has not fully paid the tax due, the revenue officer has the authority to take the taxpayer's funds or property for the payment of tax. Taking a taxpayer's property for unpaid tax is commonly referred to as a "seizure."

TIGTA reviewed a random sample of 50 of the 578 seizures conducted from July 1, 2008, through June 30, 2009, to determine whether the IRS is complying with legal and internal guidelines when conducting seizures. The review included a total of 58 guidelines for each seizure. TIGTA determined that in the majority of seizures, the IRS followed all

guidelines applicable to the respective case. However, in 17 seizures, there were 22 instances in which the IRS did not comply with a particular Internal Revenue Code requirement. While TIGTA did not identify any instances in which the taxpayers were adversely affected, not following legal and internal guidelines could result in abuses of taxpayers' rights.

After the seizure of property, the IRS is required to provide the taxpayer a Notice of Seizure (Form 2433) that specifies the liability for which the seizure was made and an accounting of the property seized. The liability should be the total amount due for all accruals and the tax modules listed on the Levy (Form 668-B). In seven cases, the Notice of Seizure (Form 2433) provided to the taxpayer did not show the correct liability.

Money realized from the seizure of property is required to be applied first to expenses of the seizure and sale, second against any unpaid tax imposed by IRS law against the property seized, and finally against the liability for which the seizure was made. We identified seven instances in which expenses and proceeds were not properly applied to the taxpayer's account.

WHAT TIGTA RECOMMENDED

TIGTA identified similar issues in last year's report and the IRS has taken corrective action. However, the seizures in this year's review were conducted prior to implementation of these actions. Therefore, TIGTA is not making any new recommendations. 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.

READ THE FULL REPORT

To view the report, including the scope and methodology, go to:

<http://www.treas.gov/tigta/auditreports/2010reports/201030049fr.pdf>

Email Address: inquiries@tigta.treas.gov
Web Site: <http://www.tigta.gov>

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