



Treasury Inspector General for Tax Administration Office of Audit

PROBLEMS PERSIST WHEN PROCESSING UNDELIVERED LIEN NOTICES AND NOTIFYING TAXPAYERS' REPRESENTATIVES

Issued on May 29, 2012

Highlights

Highlights of Report Number: 2012-30-057 to the Internal Revenue Service Commissioners for the Small Business/Self-Employed Division and the Wage and Investment Division.

IMPACT ON TAXPAYERS

After filing Notices of Federal Tax Lien, the IRS must notify the affected taxpayers in writing, at their last known address, within five business days of the lien filings. However, as noted in previous audits, the IRS did not always follow its own internal guidelines for notifying taxpayer representatives of the filing of lien notices. Therefore, some taxpayers may have had their rights violated when the IRS did not notify their representatives of lien filings.

WHY TIGTA DID THE AUDIT

TIGTA is required by law to determine annually whether lien notices issued by the IRS comply with the legal guidelines in Internal Revenue Code Section 6320 and related guidance in the Federal Tax Liens Handbook.

WHAT TIGTA FOUND

TIGTA reviewed a statistically valid sample of 105 Notices of Federal Tax Lien (NFTL) filed for the 12-month period ending June 30, 2011, and determined that the IRS mailed taxpayers lien notices in a timely manner as required. However, the IRS did not always follow its own regulations for notifying representatives of the filing of NFTLs. IRS regulations require taxpayer representatives be given copies of all correspondence issued to taxpayers. For four (18 percent) of 22 sample cases for which the taxpayer had an authorized representative, the IRS did not notify the taxpayer's representative of the NFTL. TIGTA estimated that 43,817 taxpayers may have been adversely affected because the IRS did not follow requirements to notify the taxpayers' representatives of the taxpayers' rights related to liens.

Additionally, when an initial lien notice is returned undelivered and a different address is available for the taxpayer, the IRS does not always meet its statutory

requirement to send the lien notice to the taxpayer's last known address. From a judgmental sample of 250 undelivered lien notices, TIGTA identified four cases for which a new lien notice should have been sent to the taxpayer's updated address because IRS systems reflected the updated address prior to the lien preparation. These cases could involve legal violations because the IRS did not meet its statutory requirement to send lien notices to the taxpayer's last known address.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Directors, Enterprise Collection Strategy and Campus Compliance Services, Small Business/Self-Employed Division 1) work with the Director, Compliance, Wage and Investment Division, to improve the controls and oversight for the processing of undelivered lien notices to ensure they are researched timely, and 2) ensure the use of undelivered lien notice mail status is consistent in the procedures for the Automated Collection System and the Collection Field function.

The IRS agreed with TIGTA's recommendations and plans to 1) make changes to the respective Internal Revenue Manuals to improve documentation and support the timely resolution of undeliverable notices, and 2) evaluate the use of nonstatutory codes against resource demands to determine if implementation is feasible.

While the IRS concurred with TIGTA's outcome measures, they disagreed that any failure to send a lien notice to taxpayer representatives jeopardizes the taxpayers' rights. However, as stated in the report, taxpayers have a right to have representatives notified of a lien filing. Department of the Treasury regulations provide that notices are required to be given to recognized taxpayer representatives. TIGTA identified instances in which the IRS did not send a lien notice to the taxpayer representatives, thereby resulting in a potential violation of the taxpayers' right to have an authorized representative notified of the filing of a lien.

The IRS also disagreed with the statement that the taxpayers were not provided a copy of the lien notice because in each of the four cases a notice was subsequently reissued to the more current address for the taxpayer. However, the IRS did not comply with the statutory requirement of providing a lien notice to the taxpayer's last known address within five business days of filing the lien. Furthermore, the IRS did not reissue a lien notice to the four taxpayers' more current address until TIGTA notified them that the original lien notice was not sent to the taxpayers' last known address.

READ THE FULL REPORT

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

<http://www.treas.gov/tigta/auditreports/2012reports/201230057fr.pdf>.

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