



*Fiscal Year 2007 Statutory Review of
Compliance With Legal Guidelines When
Issuing Levies*

April 20, 2007

Reference Number: 2007-30-070

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.

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TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

April 20, 2007

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 2007 Statutory Review of Compliance
With Legal Guidelines When Issuing Levies (Audit # 200630033)

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

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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for Tax Administration reports have 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 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 continue to function effectively. Specifically, our review of 30 Automated Collection System and 30 Integrated Collection System systemic levies issued between July 1, 2005, and June 30, 2006, showed the IRS properly informed taxpayers of their appeal rights at least 30 days prior to issuing levies.

Prior to Fiscal Year 2005, we had reported⁵ that revenue officers did not always properly notify taxpayers of their appeal rights when issuing manual levies to seize taxpayer assets. Since Fiscal Year 2005, we have reported revenue officers properly notified taxpayers of their appeal rights when issuing manual levies.⁶ Our review this year of 30 Integrated Collection System and 30 Automated Collection System manual levies issued between July 1, 2005, and June 30, 2006, continued to show revenue officers and Automated Collection System representatives properly informed taxpayers of their rights at least 30 days prior to issuing the levies.

Recommendations

We made no recommendations in this report. However, key IRS management officials reviewed it prior to issuance and agreed with the facts and conclusions presented.

Copies of this report are also being sent to the IRS managers affected by this report. Please contact me at (202) 622-6510 if you have questions or Daniel R. Devlin, Assistant Inspector General for Audit (Small Business and Corporate Programs), at (202) 622-5894.

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 *Additional Efforts Are Needed to Ensure Taxpayer Rights Are Protected When Manual Levies Are Issued* (Reference Number 2004-30-094, dated April 2004) and *The Internal Revenue Service Does Not Have Controls Over Manual Levies to Protect the Rights of Taxpayers* (Reference Number 2003-40-129, dated June 2003).

⁶ *Taxpayer Rights Are Being Protected When Levies Are Issued* (Reference Number 2005-30-072, dated June 2005) and *Fiscal Year 2006 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (Reference Number 2006-30-101, dated August 4, 2006).



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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." The IRS Restructuring and Reform Act of 1998¹ requires the IRS to notify taxpayers at least 30 days before initiating a levy action, to give taxpayers 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 taxpayers at least 30 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 ninth 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 (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. 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. This was due primarily to the development of systemic controls in both the ACS and ICS to

¹ 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.).

² *The Internal Revenue Service Does Not Have Controls Over Manual Levies to Protect the Rights of Taxpayers* (Reference Number 2003-40-129, dated June 2003); *The Internal Revenue Service Has Improved Controls Over the Issuance of Levies, But More Should Be Done* (Reference Number 2002-40-176, dated September 2002); *The Internal Revenue Service Complied With Levy Requirements* (Reference Number 2001-10-113, dated July 2001); and *The Internal Revenue Service Has Significantly Improved Its Compliance With Levy Requirements* (Reference Number 2000-10-150, dated September 2000).



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prevent levies from being generated unless there were at least 30 days between the date taxpayers received notice of their appeal rights and the date of the proposed levies.

Treasury Inspector General for Tax Administration audit reports issued prior to Fiscal Year 2005 identified that additional controls were needed over manual levies issued by revenue officers.³ In the April 2004 report, we recommended the IRS reconsider requiring managers to review manual levies prepared by a revenue officer. The IRS declined to implement this recommendation but did issue an ICS Alert on March 5, 2004, reminding employees to ensure taxpayer rights are protected whenever a manual levy is issued. Both our June 2005 and August 2006 reports⁴ showed revenue officers properly notified taxpayers of their right to a hearing when issuing manual levies.

This review was conducted at the Small Business/Self-Employed Division Headquarters in the Collection office in New Carrollton, Maryland, during the period September 2006 through February 2007. The audit was conducted in accordance with *Government Auditing Standards*. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

³ *Additional Efforts Are Needed to Ensure Taxpayer Rights Are Protected When Manual Levies Are Issued* (Reference Number 2004-30-094, dated April 2004) and *The Internal Revenue Service Does Not Have Controls Over Manual Levies to Protect the Rights of Taxpayers* (Reference Number 2003-40-129, dated June 2003).

⁴ *Taxpayer Rights Are Being Protected When Levies Are Issued* (Reference Number 2005-30-072, dated June 2005) and *Fiscal Year 2006 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (Reference Number 2006-30-101, dated August 4, 2006).



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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 days prior to the issuance of the levies.

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

ACS 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 representatives contact taxpayers by telephone to resolve their accounts. If accounts cannot be resolved, representatives have the authority to issue levies. See Appendix IV for an example of a Levy (Form 668-B).

Virtually all levies issued by 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 days between the dates, the ACS will not generate a levy. This control is designed to ensure taxpayers have been notified at least 30 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 30 levies issued through the ACS between July 1, 2005, and June 30, 2006. We compared the date of the final notification letter to the date of the issuance of the levy. All 30 taxpayers were timely notified of their appeal rights. Therefore, the systemic controls in the ACS Call Centers effectively protected taxpayers' appeal rights.

IRS guidelines state that, if a notice of intent to levy is more than 180 days old, it is legally sufficient to support consequent collection action by levy. However, the IRS has administratively determined that the taxpayer will get a new warning of enforcement action before a notice of levy is issued. In 19 of the 30 cases, the notification letter was issued more than 180 days prior to the levy. In three of these cases, there was no reminder of potential enforcement actions to the taxpayers. The notification letters of appeal rights had been issued 193, 415, and 1,455 days prior to the levies for these taxpayers.



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Although we did not select a statistically valid sample, for the 1-year period, the IRS issued ACS systemic levies to approximately 686,000 taxpayers. Therefore, there is the potential that a large number of taxpayers may have had the same situation occur. Subsequent to our audit period, the IRS implemented programming changes to the ACS that we believe should address this issue so it does not happen in the future. The programming changes identify cases in which the taxpayers have not been contacted within 180 days. For these cases, the IRS would send another letter or contact the taxpayers warning them of potential enforcement action prior to issuing the levies. We plan to test this control in future audits.

ICS 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.

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 days' notice and have been informed of their appeal rights. If fewer than 30 days have elapsed since the final notice date, the System will not generate a levy.

We tested the effectiveness of this control by reviewing a random sample of 30 systemically generated levies issued through the ICS between July 1, 2005, and June 30, 2006. We compared the date of the final notification letter to the date of the issuance of the levy. All 30 taxpayers had received notification of their appeal rights at least 30 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

The second type of levy that both representatives and revenue officers can issue is the manual levy. It is issued outside the ACS and ICS automated processes and may not be subject to systemic controls.

Because manual levies are issued outside the ACS and ICS automated processes, an automated audit trail for these actions is not produced. Therefore, it is impossible to reliably determine the exact number of manual levies issued by either representatives or revenue officers during our review period.

Although ACS function representatives primarily issue levies systemically, they may also issue manual levies under certain circumstances, such as levies on Individual Retirement



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Arrangements and in jeopardy situations.⁵ 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 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 narrative files for ACS function cases to identify any manual levies issued between July 1, 2005, and June 30, 2006. Because there is no automated audit trail produced for manual levies, we analyzed case narrative comments for any references to a manual levy. Our review of 30 manual levies issued by representatives showed the IRS adequately protected taxpayers' appeal rights.

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

Revenue officers similarly 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 ACS function representatives, no review or approval is required when 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, 2005, and June 30, 2006. Because no automated audit trail is produced for manual levies, we analyzed case history comments for any references to a manual levy. Using this methodology, we identified cases in which a manual levy was issued to seize taxpayers' assets and reviewed a sample of 30 cases. In all 30 cases, taxpayers received proper notification of their rights.

⁵ A "jeopardy situation" occurs when the IRS is concerned the taxpayer may attempt to hide or dispose of assets to prevent enforced collection actions.



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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 United States Code (U.S.C.) Section (§) 6330, Notice and Opportunity for Hearing Before Levy.¹ To accomplish our objective, we:

- I. Determined whether the IRS maintained sufficient automated controls and procedures to ensure taxpayers had been advised of their right to a hearing at least 30 days prior to any levy action.
 - A. Determined whether automated procedures to prevent levies from being issued in fewer than 30 days from the final notice date were still in place for the ACS² Call Centers and the ICS³ and documented the current procedures.
 - B. Selected a random sample of 30 ICS levies from the population of approximately 380,000 levies involving 80,000 taxpayers issued between July 1, 2005, and June 30, 2006, from an extract of the ICS database of open cases as of September 2006. We analyzed Master File⁴ transcripts and the record histories for the selected sample cases and verified whether taxpayers had been advised of their right to a hearing at least 30 days prior to any levy action. We did not use statistical sampling because, based on prior years' testing, we did not anticipate finding any errors; consequently, we would not need to project our results.
 - C. Selected a random sample of 30 ACS levies from the population of approximately 1.8 million levies involving 686,000 taxpayers issued between July 1, 2005, and June 30, 2006, from an extract of the ACS database of open cases as of September 2006. We analyzed Master File transcripts and the record histories for the sample cases selected and verified whether taxpayers had been advised of their right to a hearing at least 30 days prior to any levy action. We did not use statistical

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 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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sampling because, based on prior years' testing, we did not anticipate finding any errors; consequently, we would not need to project our results.

- D. Validated data from the ACS and ICS by relying on Treasury Inspector General for Tax Administration Data Center Warehouse site procedures that ensure data received from the IRS are valid. Various procedures are performed to ensure the Warehouse 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 the levies identified are in the appropriate period, and the data appear logical.
- II. Determined whether manual levies issued by revenue officers and ACS function personnel complied with legal guidelines in 26 U.S.C. § 6330.
- A. Identified any references to manual levies issued between July 1, 2005, and June 30, 2006, by querying the history narrative text field of the ICS open case inventories and the narrative field of the Desktop Integration files for ACS function cases. We identified and reviewed a judgmental sample of 30 manual levies from the open ICS cases and a judgmental sample of 30 manual levies from the ACS function cases. We used judgmental sampling because we could not identify the population of manual levies issued.
1. Requested complete case history files for all cases containing references to manual levies identified in Step II.A.
 2. Reviewed case history documentation and identified whether a revenue officer or an ACS function representative had issued a manual levy.
 3. Analyzed Master File transcripts and ACS and ICS history files to determine whether taxpayers were provided at least 30 days' notice prior to any levy action initiated by the IRS.



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Appendix II

Major Contributors to This Report

Daniel R. Devlin, Assistant Inspector General for Audit (Small Business and Corporate Programs)
Parker Pearson, 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, Campus Compliance Services, Small Business/Self-Employed Division SE:S:CCS
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)