



## Treasury Inspector General for Tax Administration

### FISCAL YEAR 2007 REVIEW OF COMPLIANCE WITH LEGAL GUIDELINES WHEN CONDUCTING SEIZURES OF TAXPAYERS' PROPERTY

Issued on July 3, 2007

## Highlights

Highlights of Report Number: 2007-30-109 to the Internal Revenue Service Commissioner for 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 TIGTA did not identify instances in which taxpayers were adversely affected, not fully complying with Internal Revenue Code requirements could result in abuses of taxpayers' rights.

### WHY TIGTA DID THE AUDIT

This audit was initiated because TIGTA is required by law to annually evaluate the IRS' compliance with the legal seizure provisions in Internal Revenue Code Sections 6330 through 6344 to ensure taxpayers' rights were not violated while seizures were being conducted. TIGTA has evaluated the IRS' compliance with the seizure provisions since Fiscal Year 1999.

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 payment agreement or 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."

### WHAT TIGTA FOUND

The IRS followed these guidelines in the vast majority of instances. Our review of a random sample of 50 seizures selected from 508 seizures conducted between July 1, 2005, and June 30, 2006, identified

15 seizures involving 17 instances in which the IRS did not fully 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. The 17 instances included 7 in which expenses and proceeds resulting from seizures were not properly applied to the taxpayer's account; 6 in which sales proceeds were applied to the taxpayer's liability, but the required balance-due letter sent to the taxpayer did not show the correct new balance; and 4 in which the name of the purchaser of the seized property was disclosed to the taxpayer.

In addition, TIGTA identified an area in which internal controls for sales of seized property can be improved to help prevent possible abuses of taxpayers' rights. Internal procedures require that sales of seized property be conducted by a Property Appraisal and Liquidation Specialist assisted by at least one other IRS employee. However, the procedures do not provide guidelines for documenting the assisting employee. In seven cases, there was no documentation in the case file that an IRS employee assisted the Property Appraisal and Liquidation Specialist with the sale.

### WHAT TIGTA RECOMMENDED

TIGTA recommended the Director, Collection, Small Business/Self-Employed Division, require the use of the Seized Property Sale Report (Form 2436) for all seizure expenses and proceeds accounting including sales, releases, and redemptions; revise the Record of Seizure and Sale (Record 21) so the name of the purchaser of seized property does not appear on the taxpayer's copy of the form; and revise procedures to include specific procedures for documenting the IRS employee who assisted in the sale.

In their response to the report, IRS officials agreed with the recommendations. A memorandum was issued to field personnel that reinforces the correct procedures for applying expenses and sale proceeds from seizures and sales. While the memorandum did not require the use of Form 2436 for releases and redemptions, it did reemphasize procedures for applying expenses and proceeds. We will reevaluate this issue during the next annual seizure review. IRS management plans to revise the Record 21 so the name of the purchaser of seized property does not appear on the taxpayer's copy of the form. Management also plans to revise the Form 2436 to include a box to record the name of the employee assisting in the sale of seized property. TIGTA agrees with the IRS' decision to revise the Form 2436.

### READ THE FULL REPORT

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

<http://www.treas.gov/tigta/auditreports/2007reports/200730109fr.pdf>

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