



*Fiscal Year 2008 Statutory Review of
Compliance With Legal Guidelines When
Issuing Levies*

April 15, 2008

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TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

April 15, 2008

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED
DIVISION

Margaret E. Bezz

FROM: (for) Michael R. Phillips
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2008 Statutory Review of Compliance
With Legal Guidelines When Issuing Levies (Audit # 200830003)

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 in each fiscal year.

Impact on the Taxpayer

The IRS Restructuring and Reform Act of 1998² requires the IRS to notify taxpayers at least 30 calendar 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 tenth annual report the Treasury Inspector General for Tax Administration has issued in compliance with the IRS Restructuring and Reform Act of 1998 requirement to determine whether the IRS is complying with legal guidelines over the issuance of levies. Our prior reports

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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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 calendar days between the date taxpayers received notice of their appeal rights and the date of the proposed levies. Our reviews for the past 5 years disclosed no weaknesses in the Automated Collection System and the Integrated Collection System systemic levy processes. Based on these results, we considered the systemic controls strong and concentrated this year's audit efforts on manual levies only. We did not test systemic levies.

Since Fiscal Year 2005, we have reported that revenue officers in field offices and Automated Collection System function customer service representatives properly notified taxpayers of their appeal rights when issuing manual levies.⁵ Our review this year of 30 Integrated Collection System and 30 Automated Collection System manual levies issued between July 1, 2006, and June 30, 2007, showed revenue officers and customer service representatives continued to properly inform taxpayers of their rights at least 30 calendar days prior to issuing the levies.

During last fiscal year's audit, we reported that the IRS did not always contact taxpayers or send reminder notices about potential enforcement actions when more than 180 calendar days had passed since the date of the notification letters. The IRS implemented program changes in the Automated Collection System to correctly address this issue. We tested the effectiveness of these changes and determined that the IRS appropriately sent reminders or had contacted taxpayers within 180 calendar days of levy for all cases in our sample.

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 Margaret E. Begg, Acting Assistant Inspector General for Audit (Small Business and Corporate Programs), at (202) 622-8510.

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 *Taxpayer Rights Are Being Protected When Levies Are Issued* (Reference Number 2005-30-072, dated June 2005); *Fiscal Year 2006 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (Reference Number 2006-30-101, dated August 4, 2006); and *Fiscal Year 2007 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (Reference Number 2007-30-070, dated April 20, 2007).



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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" (see Appendix IV for an example of a Levy (Form 668-B)). The IRS Restructuring and Reform Act of 1998¹ requires the IRS to notify the taxpayer at least 30 calendar days before initiating a levy action to give the taxpayer 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 the taxpayer at least 30 calendar 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 tenth 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 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. Virtually all levies issued by customer service representatives are generated through the ACS. To comply with requirements in the IRS Restructuring and Reform Act of 1998, the ACS contains a control that prevents a levy from being generated if there are fewer than 30 calendar days between the date the taxpayer was notified of the pending levy and the date requested for the actual issuance of the levy. This control is designed to ensure that taxpayers have been notified at least 30 calendar days prior to issuance of the levies and have been informed of their appeal rights for any systemically generated levies. In addition, managers approve all levy actions. Even when an employee manually generates the request for a levy (as opposed to the

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.).



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system generating the request), the systemic controls of at least 30 calendar days' notice and managerial approval are in place.

The ICS includes a control—similar to the control in the ACS—that prevents revenue officers from issuing levies unless taxpayers have received 30 calendar days' notice and have been informed of their appeal rights. If fewer than 30 calendar days have elapsed since the final notice date, the ICS will not generate a levy.

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, primarily due to the development of these systemic controls in both the ACS and ICS. Our reviews for the past 5 fiscal years disclosed no weaknesses in the ACS and ICS systemic levy processes. Based on these results, we consider the controls to be strong. Therefore, we concentrated this year's audit efforts on manual levies only and did not test systemic levies.

There is a higher risk when revenue officers issue manual levies because they request these levies outside of the systemic controls that exist and there is no managerial approval required. Treasury Inspector General for Tax Administration audit reports issued prior to Fiscal Year 2005 reported that additional controls were needed over manual levies issued by revenue officers.³ The IRS issued an ICS Alert on March 5, 2004, reminding employees to ensure that taxpayer rights are protected whenever a manual levy is issued. Since our Fiscal Year 2005 report,⁴ we have reported that revenue officers properly notified taxpayers of their right to a hearing when issuing manual levies. However, we consider the risk higher and continued to test the manual levies.

Because the ICS is not generating the levies, we cannot be assured that there is a complete automated trail for manual levies. Therefore, it is impossible to reliably determine the exact number of manual levies issued by revenue officers during our review period. However, we estimate that customer service representatives manually generated about 22 percent of all levies issued through the ACS during our audit period. We estimate that revenue officer requests for manual levies totaled less than 1 percent of all levies requested by revenue officers.

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).

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); *Fiscal Year 2006 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (Reference Number 2006-30-101, dated August 4, 2006); and *Fiscal Year 2007 Statutory Review of Compliance With Legal Guidelines When Issuing Levies* (Reference Number 2007-30-070, dated April 20, 2007).



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This review was performed at the Small Business/Self-Employed Division National Headquarters in the Collection office in New Carrollton, Maryland, during the period August 2007 through January 2008. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.



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Results of Review

Employees Properly Notified Taxpayers of Their Appeal Rights Prior to Issuing Manual Levies

Although the ACS function primarily issues levies systemically, customer service representatives may also request manual levies under certain circumstances, such as levies on Individual Retirement 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 customer service 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 histories for ACS function cases to identify any manual levies issued between July 1, 2006, and June 30, 2007. Because there is no automated audit trail produced for manual levies, we used employee and action codes⁶ as the basis to identify any potential manual levies issued by ACS function employees. Our review of 30 manual levies issued by customer service representatives showed the IRS adequately protected taxpayers' appeal rights.

Revenue officers 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 the ACS function, 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.

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

We analyzed the ICS case inventory assigned to revenue officers to identify any manual levies issued between July 1, 2006, and June 30, 2007. Because no automated audit trail is produced for manual levies, we analyzed case history comments for any reference 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 that the taxpayer may attempt to hide or dispose of assets to prevent enforced collection actions.

⁶ The action code shows what action was taken, such as levy. The employee code shows whether there was a system-generated action or an employee-generated action.



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The ACS is sending reminder notices to taxpayers when 180 calendar days have passed since issuance of the notification letters

IRS guidelines state that, if a notice of intent to levy is more than 180 calendar 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. This warning can be given orally through contact with the taxpayer or in writing through issuance of an ACS letter. During last fiscal year's audit, we reported that this was not always being done in the ACS function. The IRS implemented programming changes to correct this. During this audit, we followed up to determine if those programming changes were effective.

We evaluated the effectiveness of program changes to the ACS for sending reminder notices to taxpayers about potential enforcement actions when more than 180 calendar days had passed since the date of the notification letters and there had been no taxpayer contact. Our review of 30 manual levies issued more than 180 calendar days after the original notices of intent to levy had been sent showed the ACS function sent appropriate reminder letters if there had been no other contacts with taxpayers within 180 calendar days of the date of the notices.



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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 manual levies issued by both revenue officers and ACS² function customer service representatives complied with legal guidelines in 26 U.S.C. § 6330.
 - A. Identified any references to manual levies issued between July 1, 2006, and June 30, 2007, by querying the history narrative text field of the ICS³ open case inventories. We identified and reviewed a judgmental sample of 30 manual levies from the open ICS cases. We used judgmental sampling because we could not identify the population of manual levies issued.
 - B. By using the employee and action codes⁴ on the ACS, identified 433,523 employee-requested levies on the ACS between July 1, 2006, and June 30, 2007, and randomly selected a sample of 30 manual levies.
 - C. Requested case history files for all cases containing references to manual levies identified in Steps I.A. and I.B.
 - D. Reviewed case history documentation and identified whether a revenue officer or an ACS function customer service representative had issued a manual levy.
 - E. Analyzed Master File⁵ transcripts and ACS and ICS history files to determine whether taxpayers were provided at least 30 calendar days' notice prior to any levy actions initiated by the IRS.

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 action code shows what action was taken, such as levy. The employee code shows whether there was a system-generated action or an employee-generated action.

⁵ 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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- F. Validated data from the ACS and ICS by relying on Treasury Inspector General for Tax Administration Data Center Warehouse⁶ site procedures that ensure that data received from the IRS are valid. The Data Center Warehouse performs various procedures to ensure that it 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 to be logical. This data validation also applied to Step II.
- II. Determined the effectiveness of program changes on the ACS for sending reminder notices to taxpayers about potential enforcement actions when more than 180 calendar days have passed since the date of the notification letters and there has been no taxpayer contact.
- A. Identified one levy per taxpayer issued more than 180 calendar days from the date of the notification letter between June 1, 2007, and June 30, 2007, by querying the Treasury Inspector General for Tax Administration Data Center Warehouse ACS database using the codes for levies and letters. We selected 1 month of levies due to the large volume of data. We identified a population of 20,037 levies and randomly selected 30 levies.
- B. Reviewed Master File, ACS, and Desktop Integration⁷ histories and action codes to determine whether reminder notices had been sent or contacts with taxpayers had been made within 180 calendar days of the levy.

⁶ A centralized storage and administration of files that provides data and data access services of IRS data.

⁷ The IRS system that provides multiple system interfaces using only one computer terminal. Users can access various IRS data systems through one computer.



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Appendix II

Major Contributors to This Report

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Carl Aley, 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: Acting 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)