



## Treasury Inspector General for Tax Administration Office of Audit

### **ACTIONS ARE NEEDED TO PROTECT TAXPAYERS' RIGHTS DURING THE LIEN DUE PROCESS**

Final Report issued on July 9, 2010

## Highlights

Highlights of Report Number: 2010-30-072 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

### **IMPACT ON TAXPAYERS**

After filing Notices of Federal Tax Lien, the Internal Revenue Service (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 has not always complied with this statutory requirement and did not always follow its own internal guidelines for notifying taxpayer representatives of the filing of lien notices. Therefore, some taxpayers' rights to appeal the lien filings may have been jeopardized, and others may have had their rights violated when the IRS did not notify their representatives of the lien filings.

### **WHY TIGTA DID THE AUDIT**

TIGTA is required by law to determine annually whether lien notices sent by the IRS comply with the legal guidelines in Internal Revenue Code Section 6320.

### **WHAT TIGTA FOUND**

TIGTA reviewed a statistically valid sample of 125 Federal Tax Liens filed for the 12-month period ending June 30, 2009, and determined that the IRS mailed substantially all of the 125 lien notices in a timely manner, as required by Internal Revenue Code Section 6320. However, there were some errors which could result in violations of taxpayers' rights. TIGTA estimated that 15,169 lien notices filed during the same period could have been mailed late.

In addition, the IRS did not always follow its own regulations for notifying taxpayers' representatives of the filing of lien notices. IRS regulations require taxpayer representatives be given copies of all correspondence issued to the taxpayer. For eight of the 31 cases in the statistically valid sample where the taxpayer had an authorized representative, the IRS did not notify the taxpayer's representative of the lien filing. The IRS does not have an automated process that updates taxpayer representative information directly to the system that

generates the lien notices. TIGTA estimated that 60,675 taxpayer representatives may not have been provided lien notices, resulting in potential violations of taxpayers' right to have their representative notified.

When an initial lien notice is returned because it could not be delivered 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. TIGTA identified some cases for which a new lien notice should have been sent to the taxpayer at the updated address because IRS systems listed the address prior to the lien filing. The 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 Director, Collection, Small Business/Self-Employed Division, consult with the IRS Office of Chief Counsel to identify any actions necessary to correct the potential taxpayer violations for the untimely lien notices. In addition, the Director, Campus Filing and Payment Compliance, Small Business/Self-Employed Division, should ensure compliance with undelivered lien notices procedures.

IRS officials agreed with the recommendations and are planning corrective actions.

### **READ THE FULL REPORT**

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

<http://www.treas.gov/tigta/auditreports/2010reports/201030072fr.pdf>.

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