



## Treasury Inspector General for Tax Administration Office of Audit

### COORDINATION AND PROCEDURES FOR FORECLOSURES CAN BE IMPROVED

Issued on September 21, 2010

## Highlights

Highlights of Report Number: 2010-30-119 to the Internal Revenue Service Deputy Commissioner for Services and Enforcement.

### IMPACT ON TAXPAYERS

When property has a Federal Tax Lien attached, the Internal Revenue Service (IRS) may participate in the collection of any proceeds from foreclosure sales. The IRS was inconsistent in how it processed foreclosure cases and coordinated with local United States Attorneys' Offices (USAO). If the IRS does not properly work these cases, taxpayers may miss an opportunity to reduce the amount of taxes owed because any funds collected are applied to the taxpayer's Federal Tax Lien balance.

### WHY TIGTA DID THE AUDIT

Because of the increase in home mortgage foreclosures, this audit was initiated to determine whether the IRS Advisory Unit (Advisory) is effectively and efficiently protecting the Federal Government's interest during foreclosure proceedings when there is a Notice of Federal Tax Lien filed.

### WHAT TIGTA FOUND

The USAO is the control point for judicial foreclosure proceedings. The Advisory acts in a supporting role by providing necessary information to the USAO to protect the Federal Government's interest. Although the Advisory does not have jurisdiction for judicial foreclosures, coordination between the two offices needs to be improved in some areas. The Advisory did not always follow up to verify whether the USAO was properly and timely filing a claim to collect potential surplus proceeds or to determine if the Advisory's recommendations for releasing the right of redemption were being followed. In addition, the Advisory did not always have adequate sale information to consider potential redemption of the property after a foreclosure sale.

Unlike judicial foreclosures, the Advisory is the control point for non-judicial foreclosure cases. The information the IRS provides to the public for submitting a timely notice of sale to the Advisory is not consistent with the

Internal Revenue Code. Specifically, the Advisory uses the postmark date to determine if the notice is timely. However, information provided to the public states timeliness is established by the receipt date. In addition, the Advisory did not always properly screen the notice of sale or provide sufficient documentation to support why the notices were rejected. Finally, the Advisory was not consistent when making a determination for requests to release the right of redemption.

### WHAT TIGTA RECOMMENDED

TIGTA recommended that the Director, Collection, Small Business/Self-Employed Division, ensure: 1) the Advisory provides timely information regarding the application of any surplus proceeds and timely recommendations regarding the value of any releases of rights of redemptions; 2) the Advisory has sufficient information to consider potential redemption of foreclosed properties; 3) communications with the public are consistent with the tax law; 4) foreclosure files include evidence supporting rejection of notices of sale; and 5) releases of the rights of redemption are timely and appropriate.

In their response to the report, IRS officials agreed with our recommendations and plan to address recommendations in a Director, Advisory, Insolvency, and Quality yearly memorandum establishing work priorities that will reinforce the Internal Revenue Manual guidance for identifying, entering into the Integrated Collection System, and closing cases. The memorandum will address the need for timely responses to the USAO regarding recommendations for surplus proceeds or release of rights of redemption, along with an appropriate history notation. Foreclosure and redemption practices will be considered as a topic for the next available Revenue Officer Continuing Professional Education training program. The IRS plans to look into the Advisory opening a dialogue with the USAO as appropriate and as resources allow to ensure receipt of the information needed to consider the recommendation. The IRS is currently revising various foreclosure and redemption products.

### 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/201030119fr.pdf>

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