



Treasury Inspector General for Tax Administration Office of Audit

FISCAL YEAR 2012 REVIEW OF COMPLIANCE WITH LEGAL GUIDELINES WHEN CONDUCTING SEIZURES OF TAXPAYERS' PROPERTY

Issued on June 29, 2012

Highlights

Highlights of Report Number: 2012-30-072 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

IMPACT ON TAXPAYERS

To ensure taxpayers' rights are protected, the IRS Restructuring and Reform Act of 1998 amended the seizure provisions in Internal Revenue Code (I.R.C.) Sections (§§) 6330 through 6344. The IRS did not always comply with these statutory requirements. Although TIGTA did not identify instances in which taxpayers were adversely affected, noncompliance with I.R.C. requirements could result in abuses of taxpayers' rights.

WHY TIGTA DID THE AUDIT

I.R.C. § 7803(d)(1)(A)(iv) requires TIGTA to annually evaluate the IRS's compliance with the legal seizure provisions to ensure that taxpayers' rights were not violated while seizures were being conducted.

WHAT TIGTA FOUND

TIGTA reviewed a random sample of 50 of the 747 seizures conducted from July 1, 2010, through June 30, 2011, to determine whether the IRS is complying with legal and internal guidelines when conducting each seizure.

In the majority of seizures, the IRS followed all guidelines, and TIGTA did not identify any instances in which the taxpayers were adversely affected. However, in 11 seizures, TIGTA identified 14 instances in which the IRS did not comply with a particular I.R.C. requirement. Specifically, TIGTA found:

- The sale of the seized property was not properly advertised. (I.R.C. § 6335(b))
- The amount of the liability for which the seizure was made was not correct on the notice of seizure provided to the taxpayer. (I.R.C. § 6335(a))

- Proceeds resulting from the seizure were not properly applied to the taxpayer's account. (I.R.C. § 6342(a))
- Information relating to the sale of the seized property was either incorrect or not provided to the taxpayer. (I.R.C. § 6340(c))

When legal and internal guidelines are not followed, it could result in the abuse of taxpayers' rights.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Director, Collection Policy, Small Business/Self-Employed Division, include an instruction in the Internal Revenue Manual that the newspaper advertisement must contain the same legal description of the property and conditions of sale that are shown on Form 2434, *Notice of Public Auction Sale*, or Form 2434-A, *Notice of Sealed Bid Sale*. In their response to the report, IRS officials agreed with the recommendation and plan to revise the Internal Revenue Manual to specifically require that the *Notice of Sale* contain the same information as the advertisement.

READ THE FULL REPORT

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

<http://www.treas.gov/tigta/auditreports/2012reports/201230072fr.pdf>