TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

Fiscal Year 2012 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property

June 29, 2012

Reference Number: 2012-30-072

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

Redaction Legend:
1 = Tax Return/Return Information

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

Highlights

Final Report issued on June 29, 2012

Highlights of Reference 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.

TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

June 29, 2012

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED DIVISION

FROM: Michael E. McKenney
Acting Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2012 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property (Audit # 201230002)

This report presents the results of our review to determine whether seizures[1] conducted by the Internal Revenue Service (IRS) complied with legal provisions set forth in Internal Revenue Code (I.R.C.) Sections (§§) 6330 through 6344 and with the IRS's own internal procedures. The Treasury Inspector General for Tax Administration is required under I.R.C. § 7803(d)(1)(A)(iv) 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. We have evaluated the IRS's compliance with the seizure provisions since Fiscal Year 1999. This audit was not intended to determine whether the decision to seize was appropriate or to identify the cause of any violations. The audit is included in our Fiscal Year 2012 Annual Audit Plan and addresses the major management challenge of Taxpayer Protection and Rights.

Management's complete response to the draft report is included as Appendix VII.

Copies of this report are also being sent to the IRS managers affected by the report recommendation.

Please contact me at (202) 622-6510 if you have questions or Frank Dunleavy, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations), at (213) 894-4470 (Ext. 128).

[1] Taking a taxpayer's property for unpaid tax is commonly referred to as a seizure.

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Abbreviations

FY	Fiscal Year
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
TIGTA	Treasury Inspector General for Tax Administration

Background

The collection of unpaid tax by the Internal Revenue Service (IRS) generally begins with letters to the taxpayer followed by telephone calls and personal contacts by an IRS employee. The employees who make personal contacts are referred to as revenue officers. They consider the taxpayer's ability to pay the tax and discuss alternatives, such as an installment agreement or an offer in compromise.[1] 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."

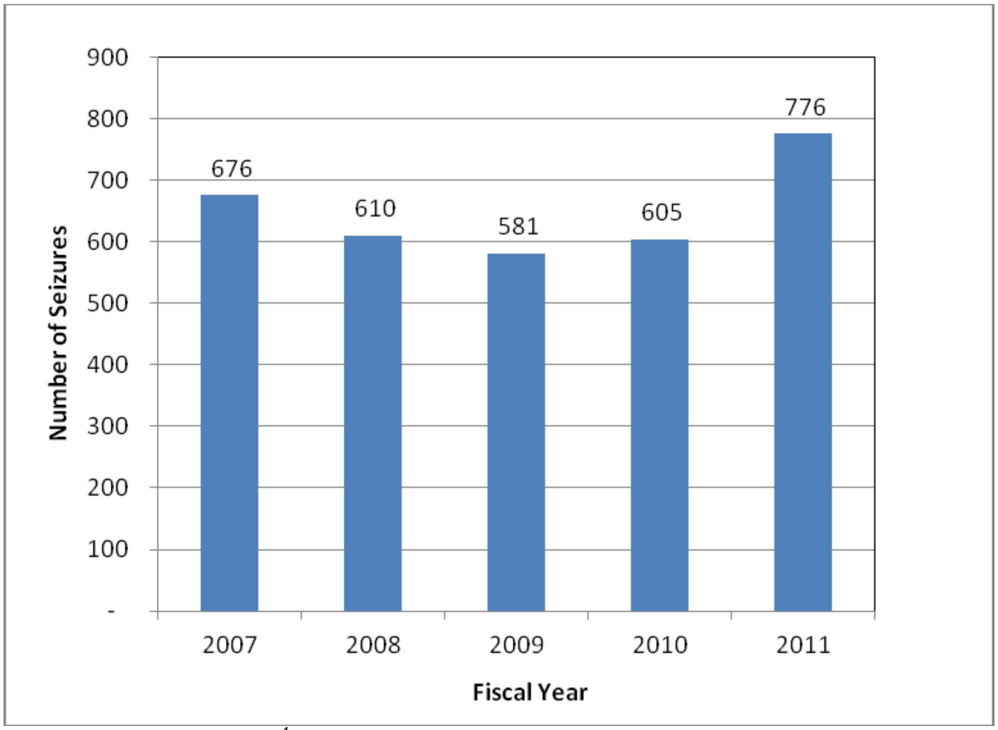
To ensure that taxpayer rights are protected, the IRS Restructuring and Reform Act of 1998[2] amended the seizure provisions in Internal Revenue Code (I.R.C.) Sections (§§) 6330 through 6344. These provisions and the IRS's internal procedures are very specific regarding how a seizure should be performed. See Appendix V for a synopsis of the applicable legal provisions.

The Treasury Inspector General for Tax Administration (TIGTA) is required under I.R.C. § 7803(d)(1)(A)(iv) to annually evaluate the IRS's compliance with these legal seizure provisions. We have evaluated the IRS's compliance with the seizure provisions since Fiscal Year (FY)[3] 1999. See Appendix VI for a list of all prior audit reports issued on the IRS's compliance with seizure procedures.

Following passage of the IRS Restructuring and Reform Act of 1998, IRS seizures decreased from 10,090 in FY 1997 to 74 in FY 2000. The number of seizures has increased since FY 2000; however, seizures in FY 2011 were still 8 percent of those reported for FY 1997. Although seizures made during FY 2011 were 28 percent higher than those made during FY 2010, it is unlikely that they will ever return to pre-1998 levels. Figure 1 illustrates the number of seizures made over the past five fiscal years.

[1] An offer in compromise is a proposal by a taxpayer to settle an unpaid account(s) for less than the full amount of the balance due.
[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.).
[3] A 12-consecutive-month period ending on the last day of any month, except December. The Federal Government's fiscal year begins on October 1 and ends on September 30.

Figure 1: IRS Seizures by Fiscal Year



Source: IRS Data Books.[4]

This review was performed at the Small Business/Self-Employed Division Headquarters in New Carrollton, Maryland, during the period August 2011 through February 2012. The audit focused on determining whether the IRS conducted seizures in compliance with legal and internal procedures. It was not intended to determine whether the decision to seize was appropriate or to identify the cause of any violations. We did not assess internal controls because doing so was not applicable within the context of our audit objective. Otherwise, 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.

[4] The IRS Data Book is a report that describes activities conducted by the IRS during the fiscal year.

Results of Review

Legal Provisions and Internal Procedures Were Not Always Adhered to When Conducting Seizures

We reviewed a random sample of 50 seizures from the 747 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. Our review included a total of 58 guidelines for each seizure.[5] In the majority of seizures, the IRS followed all guidelines applicable to the respective case, and we did not identify any instances in which the taxpayers were adversely affected. However, in 11 seizures, we identified 14 instances in which the IRS did not comply with a particular I.R.C. requirement.[6] Not following the legal and internal guidelines could result in the abuse of taxpayers' rights. Specifically, we found:

- Five instances in which the sale of the seized property was not properly advertised. (I.R.C. § 6335(b))
- Four instances in which 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))
- Three instances in which proceeds resulting from the seizure were not properly applied to the taxpayer's account. (I.R.C. § 6342(a))
- Two instances in which the required information relating to the sale of the seized property was either incorrect or not provided to the taxpayer. (I.R.C. § 6340(c))

Sales of seized properties were not always properly advertised

I.R.C. § 6335(b) requires the IRS, as soon as practicable after the seizure of property, to give notice to the owner and publish a notification in a newspaper distributed within the county where the seizure was made. If there is no newspaper published or generally circulated in the county, the IRS must post a notice at the post office nearest the place where the seizure is made, and in not less than two other public places. The notice must specify the property to be sold and the time, place, manner, and conditions of the sale thereof.

[5] The guidelines applicable for each seizure vary due to the timing between the date of seizure and date of our review. For example, at the time of our review, the sale for the seized property may not have been advertised, the sale may have been advertised but had not yet occurred, the property may have been redeemed or released prior to sale, or the property may have been sold.
[6] Some seizures had more than one instance in which the IRS did not comply with a particular I.R.C. requirement.

We identified three seizures in which the payment terms were not correctly stated in the newspaper notice and two seizures in which the payment terms were not stated. The Internal Revenue Manual (IRM) requires that the notice of sale contain the description of the property; the date, time, and place of sale; the payment terms; and information on the grouping of property.[7] However, neither the IRM section nor the corresponding Template to Provide Publisher to Meet Statutory Requirements of Advertising[8] states that the newspaper advertisement must contain the same information as provided on the Form 2434, *Notice of Public Auction Sale*, or when applicable on the Form 2434–A, *Notice of Sealed Bid Sale*.

Taxpayers were not always provided notices of seizure with accurate liability balances

I.R.C. § 6335(a) requires the IRS, as soon as practicable after the seizure of property, to provide the owner of the property with a notice in writing that specifies the liability for which the seizure was made and an accounting of the property seized.

The IRM[9] provides guidance on completing Form 2433, *Notice of Seizure*.[10] It requires that the liability shown on Form 2433 agrees with the taxpayer's total amount due for the tax modules[11] listed on the Form 668-B, *Levy*.[12] This amount should include all accruals and match the Total Amount Due on Form 668-B. If there is a difference in amount, it should be documented in the Integrated Collection System[13] history. The items of property seized should be described and identified with reasonable certainty in an inventory listed on the Form 2433 or in an attachment to the Form 2433. We identified four seizures in which the Forms 2433 provided to the taxpayers did not show the correct liabilities for which the seizures were made. Because the number of errors was small and they did not appear to be systemic in nature, we are not making any recommendations for this issue.

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[7] IRM 5.10.4.12 (4) (Jul. 3, 2009).
[8] IRM Exhibit 5.10.4-6 (Jul. 3, 2009).
[9] IRM Exhibit 5.10.3-4 (Jan. 22, 2008).
[10] Form 2433 is the taxpayer's receipt for the seized property. The document specifies the sum demanded – for personal property, a list of the property seized; and for real property, a description of the property seized.
[11] Tax module refers to each tax return filed by the taxpayer for a specific period (year and quarter) during a calendar year for each type of tax.
[12] A levy is a means to take property by legal authority to satisfy a tax debt. The IRS uses a levy as a tool to collect on balance-due accounts that are not being paid voluntarily.
[13] The Integrated Collection System is an automated system used to control and monitor delinquent cases assigned to revenue officers in the field offices.

Proceeds resulting from the sales of seized properties were not always properly applied to taxpayers' accounts

I.R.C. § 6342(a) and the IRM require any money realized by seizure or by sale of seized property to be applied in the following order:

1) Against the expenses of the proceedings.
2) Against any unpaid tax imposed by any Internal Revenue law against the property seized and sold (*e.g.*, an excise tax).
3) Against the liability with respect to which the levy was made or the sale was conducted (the accounts appearing on the Form 668-B).

Because the I.R.C. requires funds realized under seizure and sale proceedings to be applied first to the expenses of the levy and sale, the IRM[14] requires the proceeds to be credited to the taxpayer's account using a Transaction Code[15] 694, Designated Payment of Fees and Collection Costs, for the amount of the expenses. We identified three seizures for which the proceeds were not posted to the taxpayers' accounts using a Transaction Code 694 for the amounts applicable to the expenses. In two seizures, the entire proceeds were entered using a Transaction Code 670, Subsequent Payment, which is used to record tax liability payments; *************1***** ***********************************1**************************************. Because the number of errors was small and they did not appear to be systemic in nature, we are not making any recommendations for this issue.

Accurate information relating to the seizures and sales of properties was not always provided to the taxpayers as required

I.R.C. § 6335 (e)(1)(A) requires that before the sale of property seized by levy, the IRS must determine a minimum sales price which considers the expense of making the levy and conducting the sale. The IRM[16] states that IRS policy limits the minimum bid to the Government's lien interest in the property plus costs.

I.R.C. § 6340(a) requires the IRS to keep a record of all sales of property. The record should include the tax for which any such sale was made, the dates of the seizure and sale, the name of the party assessed, all proceedings in making the sale, the amount of the expenses, the names of the purchasers, and the date of the deed or certificate of sale of personal property. I.R.C. § 6340(c) requires that the taxpayer be furnished the record of sale under subsection (a) (other than the names of the purchasers).

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[14] IRM 5.10.6.2(2) (Jul. 3, 2009).
[15] Transaction codes are used to identify transactions being processed to the IRS computer systems and to maintain a history of actions posted to a taxpayer's account.
[16] IRM 5.10.4.8(2) (Jul. 3, 2009).

The IRM[17] requires the minimum bid price and the basis for computation be provided to the taxpayer. *************************************1***************************
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1************************.

The IRM[18] lists the Record 21, *Record of Seizure and Sale*,[19] Form 2434-B, *Notice of Encumbrances Against or Interests in Property Offered for Sale*, and Letter 3074, *Transmittal Letter Providing Balance Remaining on the Account after Application of Proceeds*, as the three documents to be retained in the permanent record and to be provided to the taxpayer. **1**
**********************************1**************************. Because the number of errors was small and they did not appear to be systemic in nature, we are not making any recommendations for this issue.

Recommendation

The Director, Collection Policy, Small Business/Self-Employed Division, should:

Recommendation 1: Include an instruction in the IRM that the newspaper advertisement must contain the same legal description of the property; the date, time, and place of sale; payment terms; and information on grouping of property that is shown on either Form 2434 or 2434-A. This instruction should also be provided on the IRM Template to Provide Publisher to Meet Statutory Requirements of Advertising.[20]

> ***Management's Response:*** IRS officials agreed with the recommendation and plan to revise the IRM to specifically require that the *Notice of Sale* contain the same information as the advertisement.

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[17] IRM 5.10.4.8.2 (2) (Jul. 3, 2009).
[18] IRM 5.10.6.12 (2) (Jul. 3, 2009).
[19] Record 21 is a three-part form that documents various aspects of the seizure and sale process. It includes information such as the assessments under which the seizure was made, description of the property seized, information regarding the advertisement of the sale, the proceeds and expenses of the seizure and sale, and the date on which the certificate of sale was issued and to whom.
[20] IRM Exhibit 5.10.4-6 (Jul. 3, 2009).

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine whether seizures[1] conducted by the IRS complied with legal provisions set forth in I.R.C. §§ 6330 through 6344 and with the IRS's own internal procedures.[2] We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

To accomplish our objective, we:

I. Obtained documentation of national guidelines provided to employees; identified IRS systems, policies, and practices for ensuring compliance with legal provisions and internal procedures related to seizures; and determined how these tools were used.

II. Selected and reviewed a random sample of 50 of the 747 seizures conducted by the IRS from July 1, 2010, through June 30, 2011. We reviewed the sample of seizures to determine whether the IRS complied with legal provisions and internal procedures, and whether the proceeds and applicable expenses of the seizures and sales were properly recorded to the taxpayers' accounts on the IRS's main computer system. We used a random sample to ensure that each of the 747 seizures had an equal chance of being selected.

Internal controls methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined the following internal controls were relevant to our audit objective: the Small Business/Self-Employed Division Collection function's policies, procedures, and practices for conducting seizures of taxpayers' property under the provisions of I.R.C. §§ 6330 through 6344. We did not assess internal controls because doing so was not applicable within the context of our audit objective to determine whether the IRS complied with these legal provisions.

[1] Taking a taxpayer's property for unpaid tax is commonly referred to as a seizure.
[2] This audit was not intended to determine whether the decision to seize was appropriate or to identify the cause of any violations.

Appendix II

Major Contributors to This Report

Margaret E. Begg, Assistant Inspector General for Audit (Compliance and Enforcement Operations)
Frank Dunleavy, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations)
Carl L. Aley, Director
Glen J. Rhoades, Audit Manager
Janis Zuika, Lead Auditor
Matthew J. Schimmel, Senior Auditor

Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Deputy Commissioner for Services and Enforcement SE
Deputy Commissioner, Small Business/Self-Employed Division SE:S
Director, Field 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

Appendix IV

Outcome Measure

This appendix presents detailed information on the measurable impact that our review will have on tax administration. This benefit will be incorporated into our Semiannual Report to Congress.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Actual; nine taxpayers[1] for whom the IRS did not comply with legal provisions and internal procedures when conducting seizures[2] (see page 3).

Methodology Used to Measure the Reported Benefit:

We selected and reviewed a random sample of 50 of the 747 seizures conducted from July 1, 2010, through June 30, 2011. While we did not identify any instances in which the taxpayers were adversely affected, not adhering to legal and internal guidelines could result in the abuse of taxpayers' rights.

[1] We identified 11 seizures in which the IRS did not follow all legal and internal guidelines. In two of these seizures, the violations only involved administrative or accounting guidelines that would not reasonably be expected to result in abuses of taxpayer rights.

[2] Taking a taxpayer's property for unpaid tax is commonly referred to as a seizure.

Appendix V

Synopsis of Selected Legal Provisions for Conducting Seizures

I.R.C. § 6330 requires the IRS to issue the taxpayer a notice of his or her right to a hearing prior to seizure[1] action. The notice must be 1) given in person, 2) left at the taxpayer's home or business, or 3) mailed as certified-return receipt requested no fewer than 30 calendar days before the day of the seizure. The notice must explain in simple terms 1) the amount owed, 2) the right to request a hearing during the 30-calendar-day period, and 3) the proposed action by the IRS and the taxpayer's rights with respect to such action.

The statute of limitations for collection is suspended from the time a taxpayer requests a hearing and while such hearings and appeals are pending, except when the underlying tax liability is not at issue in the appeal and the court determines that the IRS has shown good cause not to suspend the seizure. No limitation period may expire before 90 calendar days after a final determination. These procedures do not apply if the collection of tax is at risk.

I.R.C. § 6331 authorizes the IRS to seize a taxpayer's property for unpaid tax after sending the taxpayer a 30-calendar-day notice of intent to levy.[2] This Section also prohibits seizure 1) during a pending suit for the refund of any payment of a divisible tax, 2) before a thorough investigation of the status of any property subject to seizure, or 3) while either an offer in compromise[3] or an installment agreement is being evaluated and, if necessary, for 30 additional calendar days during which the taxpayer may appeal the rejection of the offer in compromise or installment agreement.

I.R.C. § 6332 requires a third party in possession of property subject to seizure to surrender such property when a levy notice is received. It contains sanctions against third parties that do not surrender such property when a levy notice is received.

I.R.C. § 6333 requires a third party with control of books or records containing evidence or statements relating to property subject to seizure to exhibit such books or records to the IRS when a levy notice is received.

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[1] Taking a taxpayer's property for unpaid tax is commonly referred to as a seizure.
[2] A levy is a means to take property by legal authority to satisfy a tax debt. The IRS uses a levy as a tool to collect on balance-due accounts that are not being voluntarily paid.
[3] An offer in compromise is a proposal by a taxpayer to settle an unpaid account(s) for less than the full amount of the balance due.

I.R.C. § 6334 enumerates property exempt from seizure. The exemption amounts are adjusted each year and included $8,250 for the period July 1 through December 31, 2010, and $8,370 for the period January 1 through June 30, 2011, for fuel, provisions, furniture, and personal effects; and $4,120 for the period July 1 through December 31, 2010, and $4,180 for the period January 1 through June 30, 2011, for books and tools necessary for business purposes. Also, any primary residence, not just the taxpayer's, is exempt from seizure when the amount owed is $5,000 or less. Seizure of the taxpayer's principal residence is allowed only with the approval of a U.S. District Court judge or magistrate. Property used in an individual taxpayer's business is exempt except with written approval of the Area Office[4] Director, and the seizure may be approved only if other assets are not sufficient to pay the liability.

I.R.C. § 6335 contains procedures for the sale of seized property. Notice must be given to the taxpayer; the property must be advertised in the county newspaper or posted at the nearest U.S. Postal Service office; and such notices shall specify the time, place, manner, and conditions of sale. This Section requires that the property be sold no fewer than 10 calendar days or more than 40 calendar days from the time of giving public notice. Finally, this Section expressly prohibits selling seized property for less than the minimum bid.

I.R.C. § 6336 contains procedures for the accelerated disposition of perishable property. This is property such as fresh food products or any property that requires prohibitive expenses to maintain during the normal sale time period. The property may either be sold quickly or returned to the taxpayer in exchange for payment of a bond.

I.R.C. § 6337 allows the taxpayer to redeem seized property prior to sale by paying the amount due plus the expenses of the seizure. It also allows a taxpayer to redeem real property within 180 calendar days of the sale by paying the successful bidder the purchase price plus 20 percent per annum interest.

I.R.C. § 6338 requires the IRS to give purchasers of seized property a certificate of sale upon full payment of the purchase price. This includes issuing a deed to real property after expiration of the 180-calendar-day period required by I.R.C. § 6337. The deed is exchanged for the certificate of sale issued at the time of the sale.

I.R.C. § 6339 provides the legal effect of the certificate of sale for personal property and the transfer deed for real property.

I.R.C. § 6340 requires each Area Office to keep a record of all sales of seized property. This record must include the tax for which such sale was made, the dates of seizure and sale, the name of the party assessed, all proceedings in making such sale, the amount of the expenses, the names of the purchasers, and the date of the deed or certificate of sale of personal property. The

[4] A geographic organizational level used by IRS business units and offices to help their specific types of taxpayers understand and comply with tax laws and issues.

taxpayer will be furnished 1) the information above except the purchasers' names, 2) the amount of such sale applied to the taxpayer's liability, and 3) the remaining balance of such liability.

I.R.C. § 6341 allows expenses for all seizure and sale cases.

I.R.C. § 6342 enumerates how the proceeds of a seizure and sale are to be applied to a taxpayer's account. Proceeds are applied first to the expenses of the seizure and sale proceedings. Any remainder is then applied to the taxpayer's liability.

I.R.C. § 6343 outlines various conditions under which a seizure may be released and property returned to the taxpayer. These conditions include full payment of the liability, determination of a wrongful seizure, financial hardship, *etc*. This Section allows a consent agreement between the United States and either the taxpayer or the National Taxpayer Advocate[5] when the return of seized property would be in the taxpayer's best interest.

I.R.C. § 6344 contains cross-references for I.R.C. §§ 6330 through 6344.

Public Law Number 105-206 (IRS Restructuring and Reform Act of 1998)[6] § 3443 required the IRS to implement a uniform asset disposal mechanism by July 22, 2000, for sales of seized property under I.R.C. § 6335. This mechanism was designed to remove revenue officers[7] from participating in the sales of seized assets.

Public Law Number 105-206 (IRS Restructuring and Reform Act of 1998) § 3421 required the IRS to employ a supervisory review of seizures before action is taken.

[5] The Taxpayer Advocate Service is an independent organization within the IRS whose employees assist taxpayers seeking help in resolving tax problems that have not been resolved through normal channels or who are experiencing significant hardships.

[6] 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.).

[7] The employees who make personal contacts with taxpayers about the collection of unpaid tax are referred to as revenue officers.

Appendix VI

Prior Reports on Compliance With Seizure Procedures

Reference No. (Date)	Report Title
199910072 (Sept. 1999)	*The Internal Revenue Service Needs to Improve Compliance With Legal and Internal Guidelines When Taking Taxpayers' Property for Unpaid Taxes*
2000-10-114 (Aug. 2000)	*The Internal Revenue Service Has Significantly Improved Compliance With Legal and Internal Guidelines When Seizing Taxpayers' Property*
2001-10-061 (May 2001)	*Letter Report: The Internal Revenue Service Complied With Legal and Internal Guidelines When Seizing Property for Payment of Tax*
2002-10-005 (Nov. 2001)	*The Internal Revenue Service Has Taken Significant Actions, But Increased Oversight Is Needed to Fully Implement the Uniform Asset Disposal Mechanism*
2002-40-155 (Aug. 2002)	*The Internal Revenue Service Continues to Comply With the Law When Seizing Taxpayers' Property*
2003-40-115 (May 2003)	*Fiscal Year 2003 Statutory Audit of Compliance With Seizure Procedures*
2004-30-149 (Aug. 2004)	*Legal and Internal Guidelines Were Not Always Followed When Conducting Seizures of Taxpayers' Property*
2005-30-091 (Jun. 2005)	*Fiscal Year 2005 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property*
2006-30-113 (Aug. 2006)	*Fiscal Year 2006 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property*
2007-30-109 (Jul. 2007)	*Fiscal Year 2007 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property*
2008-30-126 (Jun. 2008)	*Fiscal Year 2008 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property*
2009-30-077 (May 2009)	*Fiscal Year 2009 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property*
2010-30-049 (May 2010)	*Fiscal Year 2010 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property*
2011-30-049 (May 2011)	*Fiscal Year 2011 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property*

Appendix VII

Management's Response to the Draft Report

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER
SMALL BUSINESS/SELF-EMPLOYED DIVISION

RECEIVED JUN 13 2012

JUN 13 2012

MEMORANDUM FOR MICHAEL R. PHILLIPS
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Faris R. Fink
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report – Fiscal Year 2012 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property (Audit # 201230002)

Thank you for the opportunity to review your draft report titled: "Fiscal Year 2012 Review of Compliance With Legal Guidelines When Conducting Seizures of Taxpayers' Property." We appreciate your acknowledgement that the IRS followed all guidelines in the majority of seizures reviewed and that no taxpayers were found to be adversely affected. As noted in the report, IRS consistently observed taxpayer rights and generally followed procedural guidelines.

Internal Revenue Code section 6335 generally requires that a Notice of Sale be provided to the taxpayer and published in a newspaper of general circulation in the county of sale. We agree that instructions in the Internal Revenue Manual (IRM) should specify that the newspaper advertisement contain the same information as the Notice of Sale provided to the taxpayer. Therefore, we concur with your recommendation to revise the IRM to include this instruction.

We concur with the outcome measures as described in the report.

Attached is a detailed response outlining our corrective actions to address your recommendation.

If you have any questions, please contact me, or a member of your staff may contact Scott D. Reisher, Director, Collection Policy, at (202) 283-7361.

Attachment

Attachment

RECOMMENDATION 1:
The Director, Collection Policy, Small Business/Self-Employed Division, should include an instruction in the IRM that the newspaper advertisement must contain the same legal description of the property; the date, time, and place of sale; payment terms; and information on grouping of property that is shown on either Form 2434 or 2434-A. This instruction should also be provided on the IRM Template to Provide Publisher to Meet Statutory Requirements of Advertising.

CORRECTIVE ACTION:
We agree with the recommendation as written and will revise IRM section 5.10.4 to specifically require that the Notice of Sale contain the same information as the advertisement required by IRC 6335.

IMPLEMENTATION DATE:
September 15, 2012

RESPONSIBLE OFFICIAL(S):
Director, Collection Policy, Small Business/Self-Employed Division

CORRECTIVE ACTION MONITORING PLAN:
IRS will monitor this corrective action as part of our internal management system of controls.