



Treasury Inspector General for Tax Administration Office of Audit

PROCEDURES FOR WITHDRAWALS AND RELEASES OF NOTICES OF FEDERAL TAX LIEN WERE NOT ALWAYS FOLLOWED

Issued on August 22, 2012

Highlights

Highlights of Report Number: 2012-30-096 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

IMPACT ON TAXPAYERS

The purpose of the Notice of Federal Tax Lien (NFTL) is to protect the Federal Government's right of priority against certain third parties, typically purchasers or creditors. When certain conditions are met, the IRS is required to release the NFTL to protect the taxpayer's rights. Also, the IRS may withdraw an NFTL in certain circumstances, such as when an NFTL is filed in error. However, releases and withdrawals of NFTLs were not always processed timely or properly. Withdrawal delays can cause unnecessary burden to taxpayers who may be trying to meet their financial obligations, and untimely releases could violate taxpayers' rights.

WHY TIGTA DID THE AUDIT

IRS policy changes and outreach efforts have caused significant increases in the number of withdrawals requested by taxpayers. TIGTA initiated this audit to determine whether the controls and procedures for the release, withdrawal, and refiling of NFTLs are effectively protecting the Federal Government's interest and taxpayers' rights.

WHAT TIGTA FOUND

Refiling the NFTL is sometimes necessary to protect the IRS's priority position against other creditors. TIGTA reviewed a random sample of 30 refiled NFTL cases and determined that all cases were processed accurately and timely.

TIGTA analyzed the impact of changes to the IRS's withdrawal policy and determined the estimated number of withdrawal certificates worked in the Advisory function increased by 142 percent between Fiscal Year 2010 and Fiscal Year 2011. TIGTA reviewed a statistical sample of 100 NFTL withdrawals and could not find evidence in 15 (15 percent) cases that withdrawals were approved by managers as required. In addition, withdrawal certificates were not issued timely to the recording office

in eight (8 percent) cases. Management approval helps reduce the risk of improper withdrawals that can burden taxpayers because of associated delays.

TIGTA also reviewed statistical samples of 100 manual and 185 systemic NFTL releases and determined the releases were not timely in 11 (11 percent) manual and nine (4.86 percent) systemic cases. Untimely NFTL releases can potentially violate taxpayers' rights.

During our review, the IRS took corrective action to prevent some untimely systemic releases. Specifically, the IRS requested reduction of the 45-day programming delay in the Automated Lien System when the Collection Statute Expiration Date on a refiled NFTL expires.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Director, Enterprise Collection Strategy, Small Business/Self-Employed Division: 1) revise procedures to ensure timely approval, processing, and documenting of NFTL withdrawal requests; 2) establish more specific timeliness expectations in the NFTL release procedures; and 3) evaluate whether to modify the 30-day delay in the Automated Lien System when the Collection Statute Expiration Date expires on a non-refiled NFTL.

In their response to the report, IRS officials agreed with all three recommendations. Specifically, the IRS plans to: 1) make changes to the relevant Internal Revenue Manual sections to provide for improved documentation and timely disposition of withdrawals; 2) make changes to the relevant Internal Revenue Manual sections to elaborate on the manual release process; and 3) consider the possibility of the programming change within the current structure of the Automated Lien System, the volume of cases affected by such a change, and the potential effects on other lien processes such as refiles.

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/201230096fr.pdf>