

* LEVY *



He's the agent that Levied my account!

Who is liable to be levied?

What is a IRS Levy?

How can I use this information to my benefit?

Volume 6, June 2002

DOWNLOADED FROM:

***Sovereignty Education and Defense Ministry
(SEDM) Website***

<http://sedm.org>



LEVELLY JOINED

202

Table of Contents

Introduction to the IRS Levy Process.....003

Notice of Levy Process.....005

Levy Seizure.....040

Rule 41 Search and Seizure.....066

Assessment Prior to Levy.....071

IRS Levy Form 668-B.....096

IRS Levy Form 668-C.....101

IRS Release of Levy.....105

IRS Levy Form 668-E, Release of Levy.....108

FIOA Request pertaining to Levy.....111

FIOA Request for a Form 8278.....112

FIOA Request for a Form 668-B and 668-C.....116

FIOA Request for a Form 668-B(Part 1).....117

FIOA Request for a Form 668-B (Part 2).....119

FIOA Request for a Form 668-C.....121

Conclusion: Committee on Finance.....123

Introduction to the IRS Levy Process
Notice of Levy

- A. Notice of Levy forms are routinely sent by various Internal Revenue Service Agents to Employers, banks and a host of other financial institutions trying to induce them to voluntarily surrender to the IRS money that is allegedly owed by the individual who is the target of the Notice of Levy.
- B. If you would take the time to read the actual contract you sign when you open any account with any financial institution, you will discover that you the customer, have waived many of your rights.
1. Many people tell us, "But all we signed was a signature card." Please don't be that naive.
 2. Behind the "Signature Card" is the contract. If the contract is not in the lobby of the financial institution, ask for it.
 3. In some circles this is called an "Invisible Contract" where it is assumed that you are aware of the contract content and the meaning of its terms.
 4. The terms of this contract indicate that you hereby "agree to obey all the Rules and Regulations of the Federal Reserve Bank".
 5. If you have a copy of all the Laws, Rules, and Regulations of the Federal Reserve Bank, please let us know ASAP!
 6. We have been to dozens of Law Libraries across America and have yet to locate them. We have asked Member Banks and even the Federal Reserve Bank itself for a copy of all the "Laws, Rules, and Regulations concerning the Federal Reserve Bank". They will not provide them.
 7. What are they hiding from us? And why?
 8. When you place your funds with these financial institutions, you turn over control of those funds to these institutions to do whatever they please with the funds.
 9. What we are trying to tell you is that the IRS is the collection agent for the Federal Reserve Bank and these financial institutions are also agents of the Federal Reserve Bank. So who is the higher power?

C. Your employers, officials of financial institutions, their accountants, and attorneys are either totally unaware of or do not want to realize the simple fact that an IRS Notice of Levy that is sent to them is a "notice" which does not have the force of law or effect in law as a court order would have.

1. We know of several companies that refused to honor the Notice of Levy sent to them by the IRS.
 - a. They basically told the IRS agent who sent the Notice of Levy that they would not honor it without the proper court order.
 - b. Two of the companies never heard from the IRS again and several other companies got a follow-up letter from the agent huffing and puffing.
 - c. In one case the agent actually went to the company and threatened to audit the company and all company officials if they did not honor his Notice of Levy. But that was before the Tax Reform Restructuring Act of 1998.

D. If you want me to honor your Notice of Levy, get a court order with the "Abstract of Judgment."

1. Where is the Court order?
2. Where is the "Abstract of Judgment," signed by the judge?

Notice of Levy Process

- A. The IRS is nothing more than an administrative agency and not a court of law.
- B. When sent to banks, companies, or wherever, Notice of Levy forms create no real levy but are simply notices of a presumptive claim on money which has no actual force or effect of law. And it is not a demand.
- C. This is not taught in law school or accounting school, and most of the general public doesn't know that the money that the IRS is trying to get must be in the possession of or under the control of the United States government in order for it to be property subject to the Notice of Levy.
- D. Title 26 USC Section 6331 (a) authorizes the issuance of a Notice of Levy to the agencies, instrumentalities, etc. of the United States government only. See Exhibit A, 1 of 8 (page 9).
 - 1. We have found no authority, nor can the IRS provide us with the authority in the IRC to send such notices to those outside the United States Government.
 - 2. The sending of such a Notice to anyone outside the United States government is an unauthorized action by the agent issuing the form.
 - 3. Even though that is what the law states, the Federal Courts do not interpret it that way, as they obey the higher power of the Federal Reserve Bank and seek to protect that institution at all costs.
- E. The authority for the IRS to make levies is provided in Section 6331 (a) (Exhibit A, page 9) of the IRC.
 - 1. Section 6331 (b) defines the circumstances under which a Levy can be made.
 - 2. It states:... "levy shall extend only to property possessed and obligations existing at the time thereof."
 - a. This means that the IRS cannot levy on any property unless it is possessed by the United States government.
 - 3. Private company officials, bank officials or the public are generally not aware of this important fact.
 - a. It is then easy for IRS agents to deceive them into believing that an actual lawful Levy has been made.

4. The recipient of the Notice of Levy can then be frightened or coerced into “Voluntary Compliance” to surrender a designated amount of money, by calling their attention to the artfully worded provisions of IRC Section 6332, (Exhibit B, page 17)

F. Three subsections of 26 USC Section 6332 (Exhibit B, 1 of 4, page 17) contain deceptive wording that scares most recipients of Notice of Levy forms into complying with the crafty request to surrender money to the Internal Revenue Service.

1. The requirements for surrendering property provided in subsection (a).
2. The penalties for failure to surrender property provided in subsection (e).
3. The protection from liability to the owner of the surrendered property provided in subsection (d).
4. IRC Section 6332 states that these provisions are applicable in situations involving “...property or rights to property subject to levy upon which a levy is made....”
5. Since property must be in the possession of the United States government before it can be property, “....subject to levy upon which a levy has been made...”, it is thus very clear that the provisions of those subsections do not apply to anyone other than those having control of property possessed by the United States government.

G. IRC Section 6331(Exhibit B, page 17) is also used to deceive non-United States government employers and banks into believing that a Levy is made when a Notice of Levy is served.

1. IRC Section 6331 (a) (Exhibit A, page 9) states “Levy may be made upon the accrued salary or wages... (of employees)... by serving a notice of levy on the employer (as defined in IRC section 3401 (d)).” The “employer” is defined in Section 3401(d) (Exhibit C, page 5) as the one who employs the “employee,” defined in section 3401(c).
2. This section defined an “employee” as one who is employed by the United States Government, its agencies or instrumentalities. Is everyone in America now an employee of the government?
3. Again the “employer” mentioned in IRC section 6331(a) (Exhibit A) is the United States government.
4. Unpaid salaries and wages of such employees are property in the possession of the United States Government. The source of these payments is the Government.

5. They are specified in IRC 6331(a) (Exhibit A) as being property upon which a Levy can be made, if the employee is a “person liable to pay a tax” who neglects or refuses to pay it.
6. EXCEPTION: If the employee is not liable for the tax, the IRS has no authority to levy or seize his property or even collect the tax from him.

H. Does the United States government own at least a 51% controlling interest in your company or bank? See Exhibit D, Title 28, 1940 edition, section 42, page 31.

I. When property is not in the possession of the United States government, the only way a Levy can be lawfully enforced is by seizure of the property sought to be levied upon. So how do they get away with what they do?

J. IRC section 6502(b) (Exhibit E, page 33) explains that a seizure alone is insufficient as a basis for a levy. Why? Because it is the issuance of a Notice of Seizure that creates a Levy.

1. That subsection states “The date on which a levy or property or rights to property is made shall be the date on which the notice of seizure provided in section 6335(a) is given.” (Exhibit F, page 35).
2. IRC Section 6502(b) (Exhibit E, page 33) shows that there must be a seizure followed by a Notice of Seizure given the owner of the seized property in order for there to be a Levy.
3. The wording in section 6331(b) (Exhibit A, page 9) supports the provisions in IRC Section 6502(b) (Exhibit E, page 33) that a seizure must exist before there can be a levy.
4. FRC section 6331(b) (Exhibit A) states, “In any case in which the Secretary may levy upon property or rights to property, he may seize and sell such property or rights to property...” This shows that in every case where the IRS has the power to levy, it must have the power of seizure.

K. Now take a close look at the exhibits:

1. Exhibit A, which we pulled from Cornell University’s legal web page at <http://www.law.cornell.edu/>. On the right hand side it lists four sections that you can use to do more research on 26 USC 6331.
 - a. If you go to Parallel authorities (CFR) and click on that section it will bring up Exhibit , showing the Parallel authorities for 26 USC 6331 is 27 CFR part 70 (Exhibit A, 8 of 8, page 16).

- b. Title 27 CFR part 70 falls under BATF, not title 26 USC.
2. Exhibit B, Parallel authorities (CFR) is also Title 27 CFR part 70 (Exhibit B, 4 of 4, page 20).
3. Exhibit C, parallel authorities (CFR) takes you to 26 CFR part 31, 26 CFR part 1 and 26 CFR part 301 (Exhibit C, 7 of 10, page 27).
 - a. When you go to those sections you will see, "contains no records." (Exhibit C, 8-10, pages 28-30).
4. Exhibit E, 2 of 2, page 34, Parallel authorities (CFR) is Title 27 CFR part 70, again ATF not Title 26.
5. Exhibit F, 5 of 5 page 39, parallels authorities CFR is title 27 USC part 70 not title 26 USC.

L. We try to present this information so you can easily understand it.
But don't just read it once go back through this information and spend some time researching it, section by section.

M. For some reason some people just refuse to look at this information, or dismiss it out of hand. Judges, lawyers, accountants, IRS personnel, and so called "employers" have a vested interest in maintaining this ruse.

N. So you think that you are going to take this type of information into an actual courtroom and prevail. Well the judge will pull out every trick in his black bag to keep this type of information out of court.

1. Those judges have a vast number of tricks that you are totally unaware of.
2. That is why we concentrate in keeping people out of the actual courtroom.

O. If the people we mentioned above would take the time to study this type of information, it would most likely burst their belief bubble in the system.

1. You see they don't have time to study as they are too busy playing golf or watching their favorite dumb ball sport, partying, chasing someone else's spouse, etc.

LII

legal information institute

collection home

US CODE COLLECTION

TITLE 26 > Subtitle F > CHAPTER 64 > Subchapter D > PART II > Sec. 6331.

Sec. 6331. - Levy and distraint



(a) Authority of Secretary

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.



(b) Seizure and sale of property

The term "levy" as used in this title includes the power of distraint and seizure by any means. Except as otherwise provided in subsection (e), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the Secretary may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal, tangible or intangible).

(c) Successive seizures

Whenever any property or right to property upon which levy has been made by virtue of subsection (a) is not sufficient to satisfy the claim of the United States for which levy is made, the Secretary may, thereafter, and as often as may be necessary, proceed to levy in like manner upon any other property liable to levy of the person against whom such claim exists, until the amount due from him, together with all expenses, is fully paid.

(d) Requirement of notice before levy

Exhibit A 1 of 8

(1) In general

Levy may be made under subsection (a) upon the salary or wages or other property of any person with respect to any unpaid tax only after the Secretary has notified such person in writing of his intention to make such levy.

(2) 30-day requirement

The notice required under paragraph (1) shall be -

(A)

given in person,

(B)

left at the dwelling or usual place of business of such person,
or

(C)

sent by certified or registered mail to such persons's last known address,

no less than 30 days before the day of the levy.

(3) Jeopardy

Paragraph (1) shall not apply to a levy if the Secretary has made a finding under the last sentence of subsection (a) that the collection of tax is in jeopardy.

(4) Information included with notice

The notice required under paragraph (1) shall include a brief statement which sets forth in simple and nontechnical terms -

(A)

the provisions of this title relating to levy and sale of property,

(B)

the procedures applicable to the levy and sale of property under this title,

(C)

the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals,

(D)

the alternatives available to taxpayers which could prevent

Exhibit A 2 of 8

levy on the property (including installment agreements under section 6159),

(E)

the provisions of this title relating to redemption of property and release of liens on property, and

(F)

the procedures applicable to the redemption of property and the release of a lien on property under this title.

(e) Continuing levy on salary and wages

The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released under section 6343.

(f) Uneconomical levy

No levy may be made on any property if the amount of the expenses which the Secretary estimates (at the time of levy) would be incurred by the Secretary with respect to the levy and sale of such property exceeds the fair market value of such property at the time of levy.

(g) Levy on appearance date of summons

(1) In general

No levy may be made on the property of any person on any day on which such person (or officer or employee of such person) is required to appear in response to a summons issued by the Secretary for the purpose of collecting any underpayment of tax.

(2) No application in case of jeopardy

This subsection shall not apply if the Secretary finds that the collection of tax is in jeopardy.

(h) Continuing levy on certain payments

(1) In general

If the Secretary approves a levy under this subsection, the effect of such levy on specified payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such continuous levy shall attach to up to 15 percent of any specified payment due to the taxpayer.

(2) Specified payment

For the purposes of paragraph (1), the term "specified payment"

Exhibit A 3 of 8

means -

(A)

any Federal payment other than a payment for which eligibility is based on the income or assets (or both) of a payee,

(B)

any payment described in paragraph (4), (7), (9), or (11) of section 6334(a), and

(C)

any annuity or pension payment under the Railroad Retirement Act or benefit under the Railroad Unemployment Insurance Act.

(i) No levy during pendency of proceedings for refund of divisible tax

(1) In general

No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid divisible tax during the pendency of any proceeding brought by such person in a proper Federal trial court for the recovery of any portion of such divisible tax which was paid by such person if -

(A)

the decision in such proceeding would be res judicata with respect to such unpaid tax; or

(B)

such person would be collaterally estopped from contesting such unpaid tax by reason of such proceeding.

(2) Divisible tax

For purposes of paragraph (1), the term "divisible tax" means -

(A)

any tax imposed by subtitle C; and

(B)

the penalty imposed by section 6672 with respect to any such tax.

(3) Exceptions

(A) Certain unpaid taxes

Exhibit 17 4 of 8

This subsection shall not apply with respect to any unpaid tax if -

(i)

the taxpayer files a written notice with the Secretary which waives the restriction imposed by this subsection on levy with respect to such tax; or

(ii)

the Secretary finds that the collection of such tax is in jeopardy.

(B) Certain levies

This subsection shall not apply to -

(i)

any levy to carry out an offset under section 6402; and

(ii)

any levy which was first made before the date that the applicable proceeding under this subsection commenced.

(4) Limitation on collection activity; authority to enjoin collection

(A) Limitation on collection

No proceeding in court for the collection of any unpaid tax to which paragraph (1) applies shall be begun by the Secretary during the pendency of a proceeding under such paragraph. This subparagraph shall not apply to -

(i)

any counterclaim in a proceeding under such paragraph; or

(ii)

any proceeding relating to a proceeding under such paragraph.

(B) Authority to enjoin

Notwithstanding section 7421(a), a levy or collection proceeding prohibited by this subsection may be enjoined (during the period such prohibition is in force) by the court in which the proceeding under paragraph (1) is brought.

(5) Suspension of statute of limitations on collection

The period of limitations under section 6502 shall be suspended for the period during which the Secretary is prohibited under this

Exhibit A 5068

(B)

if such offer is rejected by the Secretary, during the 30 days thereafter (and, if an appeal of such rejection is filed within such 30 days, during the period that such appeal is pending).

For purposes of subparagraph (A), an offer is pending beginning on the date the Secretary accepts such offer for processing.

(2) Installment agreements

No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid tax -

(A)

during the period that an offer by such person for an installment agreement under section 6159 for payment of such unpaid tax is pending with the Secretary;

(B)

if such offer is rejected by the Secretary, during the 30 days thereafter (and, if an appeal of such rejection is filed within such 30 days, during the period that such appeal is pending);

(C)

during the period that such an installment agreement for payment of such unpaid tax is in effect; and

(D)

if such agreement is terminated by the Secretary, during the 30 days thereafter (and, if an appeal of such termination is filed within such 30 days, during the period that such appeal is pending).

(3) Certain rules to apply

Rules similar to the rules of paragraphs (3) and (4) of subsection (i) shall apply for purposes of this subsection.

(I)

Cross references

(1)

For provisions relating to jeopardy, see subchapter A of chapter 70.

(2)

For proceedings applicable to sale of seized property see section 6335.

(3)

For release and notice of release of levy, see section 6343

Exhibit A 6 of 8

subsection from making a levy.

(6) Pendency of proceeding

For purposes of this subsection, a proceeding is pending beginning on the date such proceeding commences and ending on the date that a final order or judgment from which an appeal may be taken is entered in such proceeding.

(j) No levy before investigation of status of property

(1) In general

For purposes of applying the provisions of this subchapter, no levy may be made on any property or right to property which is to be sold under section 6335 until a thorough investigation of the status of such property has been completed.

(2) Elements in investigation

For purposes of paragraph (1), an investigation of the status of any property shall include -

(A)

a verification of the taxpayer's liability;

(B)

the completion of an analysis under subsection (f);

(C)

the determination that the equity in such property is sufficient to yield net proceeds from the sale of such property to apply to such liability; and

(D)

a thorough consideration of alternative collection methods.

(k) No levy while certain offers pending or installment agreement pending or in effect

(1) Offer-in-compromise pending

No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid tax -

(A)

during the period that an offer-in-compromise by such person under section 7122 of such unpaid tax is pending with the Secretary; and

Exhibit A 7 of 8

Parallel authorities for 26 USC 6331 (from CFR)

[NB: because this service is automated, and the information it uses relatively volatile, this listing may not be complete and is presented for reference only. You may want to consult the House of Representatives parallel table of authorities for a complete listing.]

- 27 CFR part 70

Exhibit A 8 of 8

LII

legal information institute

[collection home](#)

US CODE COLLECTION

TITLE 26 > Subtitle F > CHAPTER 64 > Subchapter D > PART II > Sec. 6332.

Sec. 6332. - Surrender of property subject to levy

(a) Requirement

Except as otherwise provided in this section, any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made shall, upon demand of the Secretary, surrender such property or rights (or discharge such obligation) to the Secretary, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.

(b) Special rule for life insurance and endowment contracts

(1) In general

A levy on an organization with respect to a life insurance or endowment contract issued by such organization shall, without necessity for the surrender of the contract document, constitute a demand by the Secretary for payment of the amount described in paragraph (2) and the exercise of the right of the person against whom the tax is assessed to the advance of such amount. Such organization shall pay over such amount 90 days after service of notice of levy. Such notice shall include a certification by the Secretary that a copy of such notice has been mailed to the person against whom the tax is assessed at his last known address.

(2) Satisfaction of levy

Such levy shall be deemed to be satisfied if such organization pays over to the Secretary the amount which the person against whom the tax is assessed could have had advanced to him by such organization on the date prescribed in paragraph (1) for the satisfaction of such levy, increased by the amount of any advance (including contractual interest thereon) made to such person on or after the date such organization had actual notice or knowledge (within the meaning of section 6323(i)(1)) of the existence of the lien with respect to which such levy is made, other than an advance (including contractual interest thereon) made automatically to maintain such contract in under an agreement entered into before such organization had such

Exhibit B 1 of 4

notice or knowledge.

(3) Enforcement proceedings

The satisfaction of a levy under paragraph (2) shall be without prejudice to any civil action for the enforcement of any lien imposed by this title with respect to such contract.

(c) Special rule for banks

Any bank (as defined in section 408(n)) shall surrender (subject to an attachment or execution under judicial process) any deposits (including interest thereon) in such bank only after 21 days after service of levy.

(d) Enforcement of levy

(1) Extent of personal liability

Any person who fails or refuses to surrender any property or rights to property, subject to levy, upon demand by the Secretary, shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy been made, together with costs and interest on such sum at the underpayment rate established under section 6621 from the date of such levy (or, in the case of a levy described in section 6331(d)(3), from the date such person would otherwise have been obligated to pay over such amounts to the taxpayer). Any amount (other than costs) recovered under this paragraph shall be credited against the tax liability for the collection of which such levy was made.

(2) Penalty for violation

In addition to the personal liability imposed by paragraph (1), if any person required to surrender property or rights to property fails or refuses to surrender such property or rights to property without reasonable cause, such person shall be liable for a penalty equal to 50 percent of the amount recoverable under paragraph (1). No part of such penalty shall be credited against the tax liability for the collection of which such levy was made.

(e) Effect of honoring levy

Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made who, upon demand by the Secretary, surrenders such property or rights to property (or discharges such obligation) to the Secretary (or who pays a liability under subsection (d)(1)) shall be discharged from any obligation or liability to the delinquent taxpayer and any other person with respect to such property or rights to property arising from such surrender or payment.

(f) Person defined

Exhibit B 2 of 4

TITLE 26 , Subtitle F . CHAPTER 64 , Subchapter D , PART II . Sec. 6332.

The term "person," as used in subsection (a), includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to surrender the property or rights to property, or to discharge the obligation.

Exhibit B 30F4

Parallel authorities for 26 USC 6332 (from CFR)

[NB: because this service is automated, and the information it uses relatively volatile, this listing may not be complete and is presented for reference only. You may want to consult the House of Representatives parallel table of authorities for a complete listing.]

- 27 CFR part 70

Exhibit B 4 of 4

LII

legal information institute

[collection home](#)

US CODE COLLECTION

TITLE 26 > Subtitle C > CHAPTER 24 > Sec. 3401.

Sec. 3401. - Definitions

(a) Wages

For purposes of this chapter, the term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term shall not include remuneration paid -

(1)

for active service performed in a month for which such employee is entitled to the benefits of section 112 (relating to certain combat zone compensation of members of the Armed Forces of the United States) to the extent remuneration for such service is excludable from gross income under such section; or

(2)

for agricultural labor (as defined in section 3121(g)) unless the remuneration paid for such labor is wages (as defined in section 3121(a)); or

(3)

for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority; or

(4)

for service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if -

(A)

on each of some 24 days during such quarter such individual

Exhibit C 1 of 10

performs for such employer for some portion of the day service not in the course of the employer's trade or business; or

(B)

such individual was regularly employed (as determined under subparagraph (A)) by such employer in the performance of such service during the preceding calendar quarter; or

(5)

for services by a citizen or resident of the United States for a foreign government or an international organization; or

(6)

for such services, performed by a nonresident alien individual, as may be designated by regulations prescribed by the Secretary; or

(7)

Repealed. Pub. L. 89-809, title I, Sec. 103(k), Nov. 13, 1966, 80 Stat. 1554)

(8)

(A)

for services for an employer (other than the United States or any agency thereof) -

(i)

performed by a citizen of the United States if, at the time of the payment of such remuneration, it is reasonable to believe that such remuneration will be excluded from gross income under section 911; or

(ii)

performed in a foreign country or in a possession of the United States by such a citizen if, at the time of the payment of such remuneration, the employer is required by the law of any foreign country or possession of the United States to withhold income tax upon such remuneration; or

(B)

for services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within a possession of the United States (other than Puerto Rico), if it is reasonable to believe that at least 80 percent of the remuneration to be paid to the employee by such employer during the calendar year will be for such services; or

(C)

for services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within Puerto Rico, if it is reasonable to believe that during the entire calendar year the employee will be a bona fide resident of Puerto Rico; or

(D)

for services for the United States (or any agency thereof) performed by a citizen of the United States within a possession of the United States to the extent the United States (or such agency) withholds taxes on such remuneration pursuant to an agreement with such possession; or

(9)

for services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

(10)

(A)

for services performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; or

(B)

for services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such services, or is entitled to be credited with the unsold newspapers or magazines turned back; or

(11)

for services not in the course of the employer's trade or business, to the extent paid in any medium other than cash; or

(12)

to, or on behalf of, an employee or his beneficiary -

(A)

Exhibit C 3 of 10

from or to a trust described in section 401(a) which is exempt from tax under section 501(a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust; or

(B)

under or to an annuity plan which, at the time of such payment, is a plan described in section 403(a); or

(C)

for a payment described in section 402(h)(1) and (2) if, at the time of such payment, it is reasonable to believe that the employee will be entitled to an exclusion under such section for payment; or

(D)

under an arrangement to which section 408(p) applies; or

(13)

pursuant to any provision of law other than section 5(c) or 6(1) of the Peace Corps Act, for service performed as a volunteer or volunteer leader within the meaning of such Act; or

(14)

in the form of group-term life insurance on the life of an
or

(15)

to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217 (determined without regard to section 274(n)); or

(16)

(A)

as tips in any medium other than cash;

(B)

as cash tips to an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is \$20 or more; ⁽¹⁾ "or".

(17)

for service described in section 3121(b)(20); ⁽¹⁾

(18)

for any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127 or 129; [1]

(19)

for any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 74(c), 117, or 132; [1]

(20)

for any medical care reimbursement made to or for the benefit of an employee under a self-insured medical reimbursement plan (within the meaning of section 105(h)(6)); or

(21)

for any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106 (b).

(b) Payroll period

For purposes of this chapter, the term "payroll period" means a period for which a payment of wages is ordinarily made to the employee by his employer, and the term "miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual or annual payroll period.

(c) Employee

For purposes of this chapter, the term "employee" includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.

(d) Employer

For purposes of this chapter, the term "employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that -

(1)

if the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term "employer" (except for purposes of subsection (a))

means the person having control of the payment of such wages,
and

(2)

in the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term "employer" (except for purposes of subsection (a)) means such person.

(e) Number of withholding exemptions claimed

For purposes of this chapter, the term "number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under section 3402 (f), or in effect under the corresponding section of prior law, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero.

(f) Tips

For purposes of subsection (a), the term "wages" includes tips received by an employee in the course of his employment. Such wages shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) or (if no statement including such tips is so furnished) at the time received.

(g)

Repealed. Pub. L. 101-140, title II, Sec. 203(a)(2), Nov. 8, 1989, 103 Stat. 830)

(h) Crew leader rules to apply

Rules similar to the rules of section 3121(o) shall apply for purposes of this chapter

Parallel authorities for 26 USC 3401 (from CFR)

[NB: because this service is automated, and the information it uses relatively volatile, this listing may not be complete and is presented for reference only. You may want to consult the House of Representatives parallel table of authorities for a complete listing.]

- [26 CFR part 31](#)
- [26 CFR part 1](#)
- [26 CFR part 301](#)



code of Federal Regulations

- Title 26 -- Internal Revenue
 - CHAPTER I -- INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY
 - Part 31 -- Employment taxes and collection of income tax at source

Title 26, part 31 contains no records

Following Citations to CFR (by Title and Section)

If you know the citation for the CFR material you want to retrieve, fill in the title and section numbers below. (Eg. 20 CFR 404.101 would be Title 20, Section 404.101). You need to fill in both title and section.

Title: Section:

Alternatively you can go to the GPO's retrieval page.

Exhibit C 8 of 10



code
of Federal Regulations

- Title 26 -- Internal Revenue
 - CHAPTER I -- INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY
 - PART 1 -- INCOME TAXES

Title 26, part 1 contains no records

Following Citations to CFR (by Title and Section)

If you know the citation for the CFR material you want to retrieve, fill in the title and section numbers below. (Eg. 20 *CFR* 404.101 would be Title 20, Section 404.101). You need to fill in both title and section.

Title: Section:

Alternatively you can go to the GPO's retrieval page.

Exhibit C 9 of 10



code of Federal Regulations

- Title 26 -- Internal Revenue
 - CHAPTER I -- INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY
 - Part 301 -- Procedure and administration

Title 26, part 301 contains no records

Following Citations to CFR (by Title and Section)

If you know the citation for the CFR material you want to retrieve, fill in the title and section numbers below. (Eg. 20 *CFR* 404.101 would be Title 20, Section 404.101). You need to fill in both title and section.

Title: Section:

Alternatively you can go to the GPO's retrieval page.

Exhibit C 10 of 10

PART I.—JUDICIAL CODE

Chap.		Sec.
1.	District courts; organization	1
2.	District courts; jurisdiction.....	41
3.	District courts; removal of causes.....	71
4.	District courts; miscellaneous provisions.....	101
5.	District courts; districts and provisions applicable to particular States.....	141
6.	Circuit courts of appeals.....	211
7.	The Court of Claims.....	241
7A.	The Customs Court.....	296
8.	The United States Court of Customs and Patent Appeals.....	301
9.	The Supreme Court.....	321
10.	Provisions common to more than one court.....	371
11.	Juries.....	411
12.	General provisions.....	430
13.	Repealing provisions.....	441
13A.	The administration of the United States courts.....	444

PART II.—THE JUDICIARY

14.	Habeas corpus.....	451
15.	District attorneys, marshals, clerks, and other court officers, and commissioners.....	481
16.	Fees, compensation, and accounts of officers.....	541
	Evidence.....	631
	Procedure.....	721
19.	United States as party defendant in certain cases.....	901

Part I.—JUDICIAL CODE

Chapter 1.—DISTRICT COURTS; ORGANIZATION

Sec.	
1.	District Courts; judges; appointments and residence.
1a-4y.	Same; additional district judges for certain districts.
5.	District judges; salaries.
5a.	District judge of the Virgin Islands; salary.
5b.	Law clerks for district judges; number.
6.	Clerks of certain courts; appointment.
7.	Deputies and clerical assistants.
8.	Deputy clerk removal; death of clerk; liability for defaults of deputies.
9.	Criers and bailiffs.
10.	Records, where kept.
11.	Altering terms.
12.	Trials not discontinued by new term.
13.	Courts open as courts of admiralty and equity.
14.	Monthly adjournments for trial of criminal causes.
15.	Special terms.
16.	Adjournment for nonattendance of judge.
17.	Disability of judge; accumulation of business; designation of another judge.
18.	Power of designated judge.
19.	Designation by Chief Justice.
20.	New appointment and revocation.
21.	Designation to act another judge.
22.	Circuit judge designated to hold district court; power.
23.	Same; duty of district or circuit judge. Interest or relationship of district judge.

Page 2453

Sec.	
25.	Affidavit of personal bias or prejudice of judge.
26.	Continuance in case of vacancy in office.
27.	Districts with more than one judge; division of business.

§ 1 (Judicial Code, section 1.) District Courts; judges; appointments and residence.

In each of the districts described in chapter five of this title there shall be a court called a district court, for which there shall be appointed one judge, to be called a district judge, except that in the District of Arizona, the District of Connecticut, the Southern District of Illinois, the Eastern District of Illinois, the Eastern District of Louisiana, the Western District of Louisiana, the District of Maryland, the Eastern District of Missouri, the Western District of Missouri, the District of Montana, the District of Nebraska, the Northern District of New York, the Western District of New York, the District of Oregon, the Middle District of Pennsylvania, the Eastern District of Tennessee, the Southern District of Texas, the Western District of Texas, the Eastern District of Virginia, the Western District of Virginia, and the Western District of Washington there shall be an additional district judge in each; in the Southern District of Florida, the District of Massachusetts, the Northern District of Ohio, the Southern District of Ohio, the Western District of Pennsylvania and the Northern District of Texas, there shall be two additional judges in each; in the Northern District of California, the District of Minnesota, the District of New Jersey, and the Eastern District of Pennsylvania, there shall be three additional judges in each; in the Eastern District of Michigan there shall be four additional judges; in the Northern District of Illinois and the Eastern District of New York there shall be five additional judges in each; in the Southern District of California there shall be seven additional judges; and in the Southern District of New York there shall be eleven additional judges. In addition to those enumerated there shall be one district judge for the Eastern and Western Districts of Arkansas, one district judge for the Eastern and Western Districts of Kentucky, one district judge for the Eastern and Western Districts of Missouri, one district judge for the Northern, Eastern and Western Districts of Oklahoma, one district judge for the Eastern and Western Districts of South Carolina, and one district judge for the Eastern and Western Districts of Washington.

Every district judge shall reside in the district or one of the districts for which he is appointed, and for offending against this provision shall be deemed guilty of a high misdemeanor. (Mar. 3, 1911, ch. 231, § 1, 36 Stat. 1087 as amended July 30, 1914, ch. 218, 38 Stat. 580 and supplemented Mar. 3, 1915, ch. 100, § 1, 38 Stat. 967; Apr. 11, 1916, ch. 64, § 1, 39

Exhibit D 1 of 2

(27) Enforcement of orders of Interstate Commerce Commission.

Twenty-seventh. Of all cases for the enforcement of any order of the Interstate Commerce Commission. (Mar. 3, 1911, ch. 231, § 207, 36 Stat. 1148; Oct. 22, 1913, ch. 32, 38 Stat. 219.)

(28) Setting aside order of Interstate Commerce Commission.

Twenty-eighth. Of cases brought to enjoin, set aside, annul, or suspend in whole or in part any order of the Interstate Commerce Commission. (Mar. 3, 1911, ch. 231, § 24, pars. 1-25, 36 Stat. 1091-1094; Mar. 3, 1911, ch. 231, § 207, 36 Stat. 1148; Dec. 21, 1911, ch. 5, 37 Stat. 46; Oct. 22, 1913, ch. 32, 38 Stat. 219; Oct. 6, 1917, ch. 97, § 1, 40 Stat. 395; Nov. 23, 1921, ch. 136, § 1310 (c), 42 Stat. 311; June 10, 1922, ch. 216, § 1, 42 Stat. 634; June 2, 1924, 4:01 p. m., ch. 234, § 1025 (c), 43 Stat. 343; Feb. 24, 1925, ch. 309, 43 Stat. 972; Feb. 26, 1926, ch. 27, §§ 1122 (c), 1200, 44 Stat. 121, 125; May 8, 1926, ch. 273, §§ 1-3, 44 Stat. 416; Mar. 2, 1929, ch. 438, § 1, 45 Stat. 1475; May 14, 1934, ch. 283, § 1, 48 Stat. 775; Jan. 20, 1936, ch. 113, § 1, 49 Stat. 1096; Aug. 21, 1937, ch. 726, § 1, 50 Stat. 738; Apr. 20, 1940, ch. 117, 54 Stat. 143.)

SIMILAR PROVISIONS

Prior to the enactment of the Judicial Code the subject matter of this section was covered by R. S. §§ 563, 629, 669, and acts Mar. 3, 1875, ch. 137, § 1, 18 Stat. 470; July 12, 1882, ch. 290, § 4, 22 Stat. 163; Feb. 25, 1885, ch. 149, § 2, 23 Stat. 321; Mar. 3, 1887, ch. 373, § 1, 24 Stat. 552; Mar. 3, 1887, ch. 359, §§ 1, 2, 24 Stat. 505; Aug. 13, 1888, ch. 866, §§ 1, 4, 25 Stat. 433, 436; May 17, 1898, ch. 339, § 1, 30 Stat. 416; June 27, 1898, ch. 503, § 1, 30 Stat. 494; July 1, 1898, ch. 541, §§ 2, 23, 30 Stat. 545, 552; July 1, 1898, ch. 546, § 3, 30 Stat. 649; Feb. 26, 1900, ch. 25, 31 Stat. 33; June 18, 1910, ch. 309, § 1, 36 Stat. 539.

The following of the similar provisions set out in the preceding paragraph were repealed by act Mar. 3, 1911, ch. 231, § 297, 36 Stat. 1168; R. S. §§ 563, 629, 1069. Acts Mar. 3, 1875, ch. 137, § 1, 18 Stat. 470; Mar. 3, 1887, ch. 373, § 1, 24 Stat. 552; Mar. 3, 1887, ch. 359, §§ 1, 2, 24 Stat. 505; Aug. 13, 1888, ch. 866, §§ 1, 4, 25 Stat. 433, 436; June 27, 1898, ch. 503, § 1, 30 Stat. 494; July 1, 1898, ch. 546, § 2, 30 Stat. 649; June 18, 1910, ch. 309, § 1, 36 Stat. 539.

R. S. § 563 was derived from acts Sept. 24, 1789, ch. 20, § 9, 1 Stat. 76; Mar. 3, 1815, ch. 101, § 4, 3 Stat. 345; Aug. 25, 1842, ch. 188, § 3, 5 Stat. 517; Feb. 28, 1871, ch. 100, § 17, 16 Stat. 456.

R. S. § 629 was derived from act Sept. 24, 1789, ch. 20, § 11, 1 Stat. 78.

R. S. § 1069 was derived from act Mar. 3, 1863, ch. 92, § 10, 12 Stat. 767.

REPEAL SAVING CLAUSES

Act May 8, 1926, ch. 273, §§ 1-3, 44 Stat. 416, constituting a former par. (26) of this section, was repealed by act Jan. 20, 1936, ch. 113, § 2, 49 Stat. 1097, which further provided that such repeal "shall not affect any act done or any right, accruing or accrued in any suit or proceeding had or commenced under said act hereby repealed, prior to the passage of this act, but all such acts or rights, suits or proceedings shall continue and be valid and may be prosecuted and enforced in the same manner as if said act had not been repealed hereby."

Section 2 of act May 14, 1904, cited to text, provided as follows: "Sec. 2. The provisions of this act [the fourth sentence of paragraph (1) of this section] shall not affect suits commenced in the district courts, either originally or by removal, prior to its passage; and all such suits shall be continued, proceedings therein had, appeals therein taken, and judgments therein rendered, in the same manner and with the same effect as if this act had not been passed."

Section 2 of act Aug. 21, 1937, cited to text, provided as follows: "Sec. 2. The provisions of this act [the fifth sentence of paragraph (1) of this section] shall not affect suits commenced in the district courts, either originally or by removal, prior to its passage; and all such suits shall be continued, proceedings therein had, appeals therein taken, and judgments therein rendered, in the same manner and with the same effect as if it had not been passed."

NATIONAL BANK ACT

Paragraph (16) of this section which was derived through R. S. § 563, from act June 3, 1864, ch. 106, 13 Stat. 99, is part of the National Bank Act. See section 38 of Title 12, Banks and Banking.

CROSS REDEMPTION

Jurisdiction in suits to recover share of expenses assessed against handlers of agricultural commodities regardless of amount in controversy, see section 610 of Title 7, Agriculture.

Jurisdiction of actions by or against Federal reserve banks, see section 632 of Title 12, Banks and Banking.

Proceedings in suits against United States, see sections 761-765 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Counterclaim and cross-claim, see Rule 13, following section 723c of this title.

Effect of Rule 13 on this section, see note by Advisory Committee under said Rule 6.

Interpleader, injunctions and deposit in court, see Rules 22, 65, 67, following section 723c of this title.

§ 42. Original jurisdiction of action by or against corporation incorporated under Act of Congress.

No district court shall have jurisdiction of any action or suit by or against any corporation upon the ground that it was incorporated by or under an Act of Congress. This section shall not apply to any suit, action, or proceeding brought by or against a corporation incorporated by or under an Act of Congress wherein the Government of the United States is the owner of more than one-half of its capital stock. (Feb. 13, 1925, ch. 229, § 12, 43 Stat. 941.)

§ 43. Venue of suits relating to orders of Interstate Commerce Commission.

The venue of any suit brought to enforce, suspend, or set aside, in whole or in part, any order of the Interstate Commerce Commission shall be in the judicial district wherein is the residence of the party or any of the parties upon whose petition the order was made, except that where the order does not relate to transportation or is not made upon the petition of any party the venue shall be in the district where the matter complained of in the petition before the commission arises, and except that where the order does not relate either to transportation or to a matter so complained of before the commission the matter covered by the order shall be deemed to arise in the district where one of the petitioners in court has either its principal office or its principal operating office. In case such transportation relates to a through shipment the term "destination" shall be construed as meaning final destination of such shipment. (Oct. 22, 1913, ch. 32, 38 Stat. 219.)

§ 44. Procedure in certain cases under interstate commerce laws; service of processes of court.

The procedure in the district courts (a) in respect to cases for the enforcement, otherwise than by adjudication and collection of a forfeiture or penalty

Exhibit D 2 of 2

LII

legal information institute

collection home

US CODE COLLECTION

TITLE 26 > Subtitle F > CHAPTER 66 > Subchapter A > Sec. 6502.

Sec. 6502. - Collection after assessment

(a) Length of period

Where the assessment of any tax imposed by this title has been made within the period of limitation properly applicable thereto, such tax may be collected by levy or by a proceeding in court, but only if the levy is made or the proceeding begun -

(1)

within 10 years after the assessment of the tax, or

(2)

if -

(A)

there is an installment agreement between the taxpayer and the Secretary, prior to the date which is 90 days after the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer at the time the installment agreement was entered into; or

(B)

there is a release of levy under section 6343 after such 10-year period, prior to the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer before such release.

If a timely proceeding in court for the collection of a tax is commenced, the period during which such tax may be collected by levy shall be extended and shall not expire until the liability for the tax (or a judgment against the taxpayer arising from such liability) is satisfied or becomes unenforceable.

(b) Date when levy is considered made

The date on which a levy on property or rights to property is made shall be the date on which the notice of seizure provided in section 6335

(a) is given

Exhibit E 1 of 2

Parallel authorities for 26 USC 6502 (from CFR)

[NB: because this service is automated, and the information it uses relatively volatile, this listing may not be complete and is presented for reference only. You may want to consult the House of Representatives parallel table of authorities for a complete listing.]

- 27 CFR part 70

Exhibit E 2 of 2

LII

legal information institute

[collection home](#)

US CODE COLLECTION

TITLE 26 > Subtitle F > CHAPTER 64 > Subchapter D > PART II > Sec. 6335.

Sec. 6335. - Sale of seized property

(a) Notice of seizure

As soon as practicable after seizure of property, notice in writing shall be given by the Secretary to the owner of the property (or, in the case of personal property, the possessor thereof), or shall be left at his usual place of abode or business if he has such within the internal revenue district where the seizure is made. If the owner cannot be readily located, or has no dwelling or place of business within such district, the notice may be mailed to his last known address. Such notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.

(b) Notice of sale

The Secretary shall as soon as practicable after the seizure of the property give notice to the owner, in the manner prescribed in subsection (a), and shall cause a notification to be published in some newspaper published or generally circulated within the county wherein such seizure is made, or if there be no newspaper published or generally circulated in such county, shall post such notice at the post office nearest the place where the seizure is made, and in not less than two other public places. Such notice shall specify the property to be sold, and the time, place, manner, and conditions of the sale thereof. Whenever levy is made without regard to the 10-day period provided in section 6331(a), public notice of sale of the property seized shall not be made within such 10-day period unless section 6336 (relating to sale of perishable goods) is applicable.

(c) Sale of indivisible property

If any property liable to levy is not divisible, so as to enable the Secretary by sale of a part thereof to raise the whole amount of the tax and expenses, the whole of such property shall be sold.

(d) Time and place of sale

The time of sale shall not be less than 10 days nor more than 40 days from the time of giving public notice under subsection (b). The place of sale shall be within the county in which the property is seized, except by

Exhibit F 1 of 5

special order of the Secretary.

(e) Manner and conditions of sale

(1) In general

(A) Determinations relating to minimum price

Before the sale of property seized by levy, the Secretary shall determine -

(i)

a minimum price below which such property shall not be sold (taking into account the expense of making the levy and conducting the sale), and

(ii)

whether, on the basis of criteria prescribed by the Secretary, the purchase of such property by the United States at such minimum price would be in the best interest of the United States.

(B) Sale to highest bidder at or above minimum price

If, at the sale, one or more persons offer to purchase such property for not less than the amount of the minimum price, the property shall be declared sold to the highest bidder.

(C) Property deemed sold to United States at minimum price in certain cases

If no person offers the amount of the minimum price for such property at the sale and the Secretary has determined that the purchase of such property by the United States would be in the best interest of the United States, the property shall be declared to be sold to the United States at such minimum price.

(D) Release to owner in other cases

If, at the sale, the property is not declared sold under subparagraph (B) or (C), the property shall be released to the owner thereof and the expense of the levy and sale shall be added to the amount of tax for the collection of which the levy was made. Any property released under this subparagraph shall remain subject to any lien imposed by subchapter C.

(2) Additional rules applicable to sale

The Secretary shall by regulations prescribe the manner and other conditions of the sale of property seized by levy. If one or more alternative methods or conditions are permitted by regulations, the Secretary shall select the alternatives applicable to the sale. Such

Exhibit F 2 of 5

regulations shall provide:

(A)

That the sale shall not be conducted in any manner other than

(i)

by public auction, or

(ii)

by public sale under sealed bids.

(B)

In the case of the seizure of several items of property, whether such items shall be offered separately, in groups, or in the aggregate; and whether such property shall be offered both separately (or in groups) and in the aggregate, and sold under whichever method produces the highest aggregate amount.

(C)

Whether the announcement of the minimum price determined by the Secretary may be delayed until the receipt of the highest bid.

(D)

Whether payment in full shall be required at the time of acceptance of a bid, or whether a part of such payment may be deferred for such period (not to exceed 1 month) as may be determined by the Secretary to be appropriate.

(E)

The extent to which methods (including advertising) in addition to those prescribed in subsection (b) may be used in giving notice of the sale.

(F)

Under what circumstances the Secretary may adjourn the sale from time to time (but such adjournments shall not be for a period to exceed in all 1 month).

(3) Payment of amount bid

If payment in full is required at the time of acceptance of a bid and is not then and there paid, the Secretary shall forthwith proceed to again sell the property in the manner provided in this subsection. If conditions of the sale permit part of the payment to be deferred, and if such part is not paid within the prescribed period, suit may be

Exhibit F 3 of 5

instituted against the purchaser for the purchase price or such part thereof as has not been paid, together with interest at the rate of 6 percent per annum from the date of the sale; or, in the discretion of the Secretary, the sale may be declared by the Secretary to be null and void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in subsections (b) and (c) and this subsection. In the event of such readvertisement and sale any new purchaser shall receive such property or rights to property, free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by such defaulting purchaser shall be forfeited.

(4) Cross reference For provision providing for civil damages for violation of

For provision providing for civil damages for violation of paragraph (1)(A)(i), see section 7433.

(f) Right to request sale of seized property within 60 days

The owner of any property seized by levy may request that the Secretary sell such property within 60 days after such request (or within such longer period as may be specified by the owner). The Secretary shall comply with such request unless the Secretary determines (and notifies the owner within such period) that such compliance would not be in the best interests of the United States.

(g)

Stay of sale of seized property pending Tax Court decision

For restrictions on sale of seized property pending Tax Court decision, see section 6863(b)(3)

Exhibit F. 4 of 5

Parallel authorities for 26 USC 6335 (from CFR)

[NB: because this service is automated, and the information it uses relatively volatile, this listing may not be complete and is presented for reference only. You may want to consult the House of Representatives parallel table of authorities for a complete listing.]

- 27 CFR part 70

Exhibit F 5 of 5

Levy /Seizure

- A. We find the definition of the word “levy” in the 1934 Bouvier’s Law Dictionary (Exhibit A). This was actually the law dictionary prior to FDR’s Emergency Declaration on 9 March 1933. On page 2 of this exhibit we find the definition of Levy. In the second paragraph we see, “In practice. A seizure..”
- B. Next go to Exhibit B, Black’s Law Dictionary, Fifth Edition, 1979, page 2, first column to the definition of Levy. “A seizure. The obtaining of money by legal process through seizure and sale of property.”
1. Both Bouvier’s and Blacks confirm that a seizure must take place before a legal levy takes place.
- C. Exhibit C comes from IR manual 57(16) Legal Reference Guide for Revenue Officers (which is number #68 on our literature list in case you want the entire manual). Go to page 3 of 6. At the bottom of the second column we find section 333.1 (1-14-87) “General: Whenever the term ‘levy’ is mentioned in this chapter, it is used as defined in the Code; i.e., ‘the power of distraint and seizure by any means.’ Whether a levy or notice of levy, is the administrative method employed to collect delinquent taxes, it should be borne in mind that a levy requires that the property levied upon be brought into legal custody through seizure. There must be actual or constructive physical appropriation of the property levied upon. Mere intent to reduce to possession and control is insufficient. Freeman Vs. Mayer, 152 F Supp. 383 (D.N.J. 1957), aff’d, 253F 2d 295 (3d Cir. 1968). ‘Constructive Seizure’ is effected through posting, tagging, inventorying, and leaving the specific property item temporarily in the custody of the taxpayer or the party who is thereby made a bailee holding the property for the Government.”
1. Remember this is coming right out of their manual, which is now law.
 2. First seizures, then levy, not the other way around.
 3. Do you think they are missing a step?
- D. Next go to Exhibit C page 6 of 6, section 334.3 (1-14-87) Seizure: (1) to effect a levy upon tangible property there must be a seizure of the property levied upon; that is, the taxpayer’s property must be reduced to

possession and control (actual or constructive). *United States vs. O'Dell*, 160 F.2d 304(6th Cir. 1947); *Freeman vs. Mayer*, 152 F. Supp 383 (D.N.J. 1957) aff'd; 253 F 2d 295 (3rd cir 1958).

1. Where is the Seizure Notice?
 2. Why do they have to have a seizure notice?
 3. Why can there only be a levy after a seizure has taken place?
- E. Where is the Internal Revenue Code section which authorizes the making of a levy at any time other than when the IRS serves a Notice of Levy on the U.S. Government's payroll department and when a Notice of Seizure is given to the owner of previously seized property?
- F. Exhibit D, page 1 of 6, is 26 USC 7608 Authority of internal revenue enforcement officers. It is the section that provided the authority for the IRS to engage in activities allowed by law.
1. Section 7608 authorizes seizures by IRS and is listed as the enforcement authority for the IRS's power of levy.
 2. 26 USC 7608 means that the IRS agent has authority to seize "property subject to forfeiture" and nothing else.
 3. As you read Exhibit D, you will find no mention of wages, salaries, or bank accounts as being property that may be seized and forfeited to the IRS.
 4. Go to Exhibit E, 1 of 2, 26 USC 7301, 7302, and 7303 are listed under the heading: "Property Subject to Foreiture"
 5. Read Section 7301 (Exhibit E, 1 of 2) " Any property on which, or for or in respect whereof, any tax imposed by this title which shall be found in the possession or custody or within the control of any person, for the purpose of being sold or removed by him in fraud of the internal revenue laws, or with design to avoid payment of such tax, or which is removed deposited, or concealed, with intent to defraud the United States of such tax or any part thereof, may be seized, and shall be forfeited to the United States."
 6. Examples of such property would be "bootleg" whiskey, the materials from which it is made, the "still" in which it is distilled, the bottles, barrels or any other containers used to contain it, and the vehicles used to haul the whiskey equipment or supplies.

7. Agencies of the United States government have only the authority specified by statutes.
 8. The authority of the Tax statutes may not be extended by implication.
 9. Look at the CFR section for 26 USC 7301, Exhibit E, page 3 of 7, "NO REGULATION" for that section. WHY? Could it be they would have to list the exact taxable items?
- G. Read Exhibit E, 26 USC 7302, then go to that section CFR Exhibit 5 of 7 and look where it takes you.
1. 27 CFR part 24, and 27 CFR part 252. How come Grandma didn't tell you about this setup?
- H. Read Exhibit G, page 1 of 2, 26 USC section 7303, "Other property subject to forfeiture.
1. There may be seized and forfeited to the United States the following: Read them for yourself.
 2. Which of those are you involved in?
 3. Go to the corresponding CFR section Exhibit G, page 2 of 2, you mean there is none?
 - a. There doesn't seem to be one and we wonder why?
- I. Please go to 26 USC 7302 and reread it. Exhibit F, page 1 of 2. Now notice the reference to 18 USC, Chapter 205, which is Rule 41 of the Rules of Criminal Procedure (Federal).
1. Read Exhibit F, which is the basis of search and seizure. There are volumes of books dedicated to just this one topic alone.
 2. Are you one who has placed yourself under their authority voluntarily? Or have they taken upon themselves to place you under their authority by what they have put in your files?

BOUVIER'S LAW DICTIONARY

BALDWIN'S STUDENTS EDITION

1934

EDITED BY

WILLIAM EDWARD BALDWIN, D.C.L.

*Editor, Officially Certified Code of Ohio, 1930; Official Statutes of Kentucky;
Baldwin's Indiana Statutes; Official Codes of Practice of Kentucky;
Tennessee Code Supplement; Michigan Compiled Laws, Supplement;
Baldwin's Ohio Civil Practice Manual; Baldwin's Ohio Criminal
Practice Manual; Baldwin's Law Dictionary.*



BANKS-BALDWIN LAW PUBLISHING COMPANY

Oldest Law Publishing House in America—Established 1804

CLEVELAND

NOTE: This Dictionary is not published by the original publishers of Bouvier's Law Dictionary or their successors. It is published by the oldest law publishing house in America and is a complete revision.

Exhibit A 1 of 2

vaga. Commentators disagree about the origin of the expression; but all agree that its general meaning is that these causes shall be heard summarily. The most probable solution is that it refers to the place where causes were heard. A sail was spread before the door and officers employed to keep strangers from the tribunal. When these causes were heard, this sail was raised, and suitors came directly to the court, and their causes were heard immediately. As applied to maritime courts, its meaning is that causes should be heard without delay. These causes required despatch, and a delay amounts practically to a denial of justice. Emerigon, *Des Assurances* c. 26, sect. 2.

LEVEES. Embankments to prevent overflow in rivers. See **RIVERS**.

A state, in the exercise of police powers, has the exclusive right to determine the propriety, location, and mode of building levees within her borders. After she has so decided, and contracted for the enterprise, a person, on whose land the levee is to be built, cannot require that it be constructed differently; and, in case of non-compliance with his demand, he cannot hold the state liable for compensation for the property taken or for any injury sustained. Anderson; 34 La. An. 494.

LEVITICAL DEGREES. Those degrees of kindred set forth in the eighteenth chapter of Leviticus, within which persons are prohibited to marry. 1 Bish. Mar. Div. & Sep. 737.

LEVITY. By the Act of 1815 and the general law on divorce, it is necessary to establish that the complaint "is not made out of levity or by collusion (*q. v.*) between said husband and wife, and for the mere purpose of being freed and separated from each other, but in sincerity and truth for the causes mentioned in the said petition or libel."

Exactly what the word "levity" means in the statute, has never been decided. . . . It may well be that the term "levity" in the Act of 1815 is intended to describe the offense which is generally called *connivance*. 30 Pa. Co. Ct. Rep. 359. See **COLLUSION**.

LEVY. To raise. Webster, Dict. To levy a nuisance, *i. e.* to raise or do a nuisance, 9 Co. 55; to levy a fine, *i. e.* to raise or acknowledge a fine, 2 Bla. Com. 357; 1 Steph. Com. 236; to levy a tax, *i. e.* to raise or collect a tax; to levy war, *i. e.* to raise or begin war, to take arms for attack, 4 Bla. Com. 81; to levy an execution, *i. e.* to raise or levy so much money on execution. Reg. Orig. 298.

In Practice. A seizure; the raising of the money for which an execution has been issued.

In order to make a valid levy on personal property, the sheriff must have it within his power and control, or at least within his view; and if, having it so, he makes a levy upon it, it will be good if followed up afterwards within a reasonable time by his taking possession in such manner as to apprise everybody of the fact of its having been taken into execution. See 84 Wis. 80; 99 N. C. 21; 83 Va. 459. To constitute a levy, a seizure is necessary, if from the nature of the property that is possible, but if not, then some act as nearly equivalent as practicable must be substituted for it; 97 N. C. 236. It is not necessary that an inventory should be made, nor that the sheriff should immediately remove the goods or put a person in possession; 3 Rawle 405; 1 Wash. C. C. 29; 46 Pa. 294. See 51 N. J. L. 148. A levy of an attachment effected in the night time by opening a window, or forcing an outer door of the house containing the goods, is valid; 85 Tenn. 368. A levy on a leasehold need not be in view of the premises if sufficiently descriptive; 77 Pa. 103. The usual mode of making levy upon real estate is to describe the land which has been seized under the execution, by metes and bounds, as in a deed of conveyance; 1 T. & H. Pr. § 1216. See 23 Neb.

786. The lien of an attachment on real estate levied upon, dates from the time the officer indorses the levy on the writ; 60 Tex. 198.

It is the duty of the sheriff, in Illinois, to notify the defendant in execution, before making the levy, and to apply to him for the payment of the execution; 129 Ill. 180. Property cannot be placed in *custodia legis* by an unauthorized levy; 36 Fed. Rep. 770. Retaining possession under a levy is not necessary to preserve the lien of the levy against a subsequent deed of assignment by the debtor; 103 N. C. 79; where the debt and costs are paid before seizure there is no levy; 9 L. J. Q. B. 232; 3 P. & D. 511; or where the *fi. fa.* was, after seizure but before sale, set aside for irregularity; 31 L. J. C. P. 361; or where the sale was prevented by a compromise between the parties; 5 Term 470. See **POUNDAGE**; **EXECUTION**.

It is a general rule that when a sufficient levy has been made the officer cannot make a second; 12 Johns. 208; 8 Cow. 192.

If an officer violates his duty, by making an excessive levy on property pointed out, he is liable for such special damages as the defendant may incur thereby; 77 Ga. 83; and when damages result from the wrongful seizure under judicial process of property exempt, not only the officer making the seizure but those for whom it was made and who ratified the act, as well as those who direct it, are liable in damages; 70 Tex. 661. See **ATTACHMENT**.

LEVY COURT. That body charged with the administration of the ministerial and financial duties of Washington County. It was charged with the duty of laying out and repairing roads, building bridges, and keeping them in good order, providing poorhouses, and the general care of the poor; and with laying and collecting the taxes which were necessary to enable it to discharge these and other duties, and to pay the other expenses of the county. It had the capacity to make contracts in reference to any of these matters, and to raise money to meet these contracts. It had perpetual succession. Its functions were those which, in the several States, are performed by "county commissioners," "overseers of the poor," "county supervisors," and similar bodies with other designations.

If not a corporation in the full sense of the term, it was a *quasi* corporation, and could sue and be sued, in regard to any matter in which, by law, it had rights to be enforced, or was under obligations which it refused to fulfill. 2 Wall (U. S.) 507, 508.

LEVYING WAR. In Criminal Law. The assembling of a body of men for the purpose of effecting by force a treasonable object; and all who perform any part, however minute or however remote from the scene of action, and who are leagued in the general conspiracy, are considered as engaged in levying war, within the meaning of the constitution; 4 Cra. 473, 474; Const. art. 3, s. 3. See **TREASON**; **Fries Trial**, Pamphl. This is a technical term, borrowed from the English law, and its meaning is the same as it is when used in stat. 25 Ed. III.; 4 Cra. 471; U. S. v. Fries, Pamphl. 167; Hall, Am. L. J. 351; Burr's Trial; 1 East, Pl. Cr. 62; 9 C. & P. 129. Where war has been levied, all who aid in its prosecution by performing any part in furtherance of the common object, however minute, or however remote from the scene of action, are guilty of treason; 3 Abbott 304. See **INSURRECTION**.

LEWDNESS. That form of immorality which has relation to sexual impurity. 61 Fed. Rep. 41. See **LASCIVIOUSNESS**.

Licentiousness; an offence, when of an open and notorious character, as by frequenting houses of ill-fame, or by some grossly scandalous and public indecency. R. & L. Dict.

LEX (Lat.). A rule of law which magistrates and people had agreed upon by means of a solemn declaration of consensus.

Sohm, Inst. R. L. 28.

In the later empire, which dates from the fourth century, there were two groups of the sources of the law, *ius (q. v.)*, *i. e.* the old traditional law, and *leges* which had sprung from imperial legislation. *Ius* was based upon the law of the Twelve Tables, *plebiscite*, *senatus-consulta*, the praetorian edict, and the ordinances of the earlier emperors, which, partly owing to their language and partly on account of the bald sententiousness, and the pregnant phraseology in which they were couched, came to be mainly used, both by the praetor and by the parties, through the classic literature where their results were set forth and worked out. This resulted in identifying *ius* with jurist-made law, and on the edict of the Law of Citations (*q. v.*) by Valentinian III., the distinction between *ius* and *lex* was practically lost. See Inst. 1. 2. 3; Sohm, Inst. R. L. 62; **JUS SCRIPTA**.

In England there was no careful discrimination between *ius*, and *lex*, and *consuetudo*, although they were not, in all contexts, used with exactly similar meaning. *Leges* was sometimes applied by both Glanville and Bracton to the unwritten laws of England, and although Bracton contrasts *consuetudo* with *lex*, there was no general definite theory as to the relation between enacted and unenacted law—the relation between law and custom, and the relation between law as it was and law as it ought to be. The king's justices claimed a certain power of improving the law, but they might not change the law, and the king might issue new writs without the consent of a national assembly, but not where such writs were contrary to the law. *Ius commune* was used by the canonists to distinguish the general and ordinary law of the universal church from any rules peculiar to a particular national or provincial church, and from the papal *privilegia*, and the phrase was also used in the dialogue on the Exchequer, but it was not until the time of Edward I. that it was superseded by *lex communis*, or that the common law could be contrasted with the statute law, the royal prerogative or local custom. 1 Poll. & Matil. 154. See **JUS SCRIPTUM**.

LEX JULIA. The law which, with the *leges Juliae*, in part abolished the *legis actiones*. It was confined to legal proceedings before the *praetor urbanus*, *i. e.* to those cases where a *judicium* was appointed to try a cause between Roman citizens within the first milestone from Rome. It provided that a *judicium* could be instituted in a city court without *legis actio*, merely by means of the formula or praetorian decree of appointment, and placed the *legis actio* and the formula, so far as the civil law was concerned, on a footing of equality. In cases falling under the jurisdiction of the centumviral court, cases of voluntary jurisdiction, and *damnum infectum*, the *legis actio* remained in use; as, according to the praetorian law in such cases, no *judex* was appointed, and consequently no formula was granted, and it was only in cases where there was no formula and no decree of appointment that the *legis actio* survived. Sohm, Rom. L. 173. See **JUDEX**; **FORMULA**.

LEX JULIA SENTENTIA. The law restraining the manumission of slaves. Morey, R. L. 99. See **MANUMISSION**.

The Aelian Sentian law, respecting wills. R. & L. Dict.

LEX AGRARIA. See **AGRICULTURE**.

LEX AMISSA. The law concerning outlaws.

LEX ANASTASIANA. The law admitting as agnati the children of emancipated brothers and sisters. Inst. 3. 5.

The Anastasian Rescript, A. D. 503. A form of emancipation which did not require the presence of the parties to go through the fictitious sale, as formerly. *Anastasianus* made provision whereby a *poterfamilias* away from

BLACK'S LAW DICTIONARY

Definitions of the Terms and Phrases of
American and English Jurisprudence,
Ancient and Modern

By

HENRY CAMPBELL BLACK, M. A.

Author of Treatises on Judgments, Tax Titles, Intoxicating Liquors,
Bankruptcy, Mortgages, Constitutional Law, Interpretation
of Laws, Rescission and Cancellation of Contracts, Etc.

FIFTH EDITION

BY

THE PUBLISHER'S EDITORIAL STAFF

Contributing Authors



JOSEPH R. NOLAN

Associate Justice, Massachusetts Supreme Judicial Court
and

M. J. CONNOLLY

Associate Professor of Linguistics
and Eastern Languages, Boston College

ST. PAUL MINN.
WEST PUBLISHING CO.
1979

Exhibit B 1 of 2

Levato velo /ləvɛˈdɔw vɪˈlɔw/. Lat. An expression used in the Roman law, and applied to the trial of wreck and salvage. Commentators disagree about the origin of the expression; but all agree that its general meaning is that these causes were to be heard summarily. The most probable solution is that it refers to the place where causes were heard. A sail was spread before the door and officers employed to keep strangers from the tribunal. When these causes were heard, this sail was raised, and suitors came directly to the court, and their causes were heard immediately. As applied to maritime courts, its meaning is that causes should be heard without delay. These causes require dispatch, and a delay amounts practically to a denial of justice.

Levee /ləvɪj/. An embankment or artificial mound of earth constructed along the margin of a river, to confine the stream to its natural channel or prevent inundation or overflow. Also, a landing place on a river or lake; a place on a river or other navigable water for lading and unlading goods and for the reception and discharge of passengers to and from vessels lying in the contiguous waters, which may be either a wharf or pier or the natural bank.

Levee district. A municipal subdivision of a state (which may or may not be a public corporation) organized for the purpose, and charged with the duty, of constructing and maintaining such levees within its territorial limits as are to be built and kept up at public expense and for the general public benefit.

Level rate, legal reserve policy. Insurance which seeks to build up a reserve which will equal face value of policy at the end of insured's life.

Leverage. The ability to control an investment by a small amount of outlay such as a down payment. The use of a smaller investment to generate a larger rate of return through borrowing. The effect on common stockholders of the requirements to pay bond interest and preferred stock dividends before payment of common stock dividends.

Leviable /ləvɪjəbəl/. That which may be levied. That which is a proper or permissible subject for a levy; as, a "leviable interest" in land.

Levir /ləvɪər/. In Roman law, a husband's brother; a wife's brother-in-law.

Levis /ləvɪs/. Lat. Light; slight; trifling. *Levis culpa*, slight fault or neglect. *Levissima culpa*, the slightest neglect. *Levis nota*, a slight mark or brand.

Levitical degrees /ləvɪdəkəl dəˈɡriɪz/. Degrees of kindred within which persons are prohibited to marry. They are set forth in the eighteenth chapter of Leviticus.

Levy, v. To assess; raise; execute; exact; tax; collect; gather; take up; seize. Thus, to levy (assess, exact, raise, or collect) a tax; to levy (raise or set up) a nuisance; to levy (acknowledge) a fine; to levy (inaugurate) war; to levy an execution, i.e., to levy or collect a sum of money on an execution.

Levy, n. A seizure. The obtaining of money by legal process through seizure and sale of property; the raising of the money for which an execution has been issued.

In reference to taxation, the word may mean the legislative function and declaration of the subject and rate or amount of taxation, *People v. Mahoney*, 13 Cal.2d 729, 91 P.2d 1029; *Atlantic Coast Line R. Co. v. Amos*, 94 Fla. 588, 115 So. 315, 320; *City of Richmond v. Eubank*, 179 Va. 70, 18 S.E.2d 397, 403; or the rate of taxation rather than the physical act of applying the rate to the property, *Lowden v. Texas County Excise Board*, 187 Okl. 365, 103 P.2d 98, 100; or the formal order, by proper authority declaring property subject to taxation at fixed rate at its assessed valuation, *State v. Davis*, 335 Mo. 159, 73 S.W.2d 406, 407; or the ministerial function of assessing, listing and extending taxes, *City of Plankinton v. Kieffer*, 70 S.D. 329, 17 N.W.2d 494, 495, 496; or the extension of the tax, *Syracuse Trust Co. v. Board of Sup'rs of Oneida County*, 13 N.Y.S.2d 390, 394; *People ex rel. Oswego Falls Corporation v. Foster*, 251 App.Div. 65, 295 N.Y.S. 891, 895. *Day v. Inland Steel Co.*, 185 Minn. 53, 239 N.W. 776, 777; or the doing of whatever is necessary in order to authorize the collector to collect the tax, *Syracuse Trust Co. v. Board of Sup'rs of Oneida County*, 13 N.Y.S.2d 390, 394. "Levy," when used in connection with authority to tax, denotes exercise of legislative function, whether state or local, determining that a tax shall be imposed and fixing amount, purpose and subject of the exaction. *Carkonen v. Williams*, 76 Wash.2d 617, 458 P.2d 280, 286. The qualified electors "levy" a tax when they vote to impose it.

See also **Assess**; **Assessment**.

Equitable levy. The lien in equity created by the filing of a creditor's bill to subject real property of the debtor, and of a *lis pendens*, is sometimes so called. The right to an equitable lien is sometimes called an "equitable levy."

Levy court. A court formerly existing in the District of Columbia. It was a body charged with the administration of the ministerial and financial duties of Washington county. It was charged with the duty of laying out and repairing roads, building bridges, providing poor-houses, laying and collecting the taxes necessary to enable it to discharge these and other duties, and to pay the other expenses of the county. It had capacity to make contracts in reference to any of these matters, and to raise money to meet such contracts. It had perpetual succession, and its functions were those which, in the several states, are performed by "county commissioners," "overseers of the poor," "county supervisors," and similar bodies with other designations. *Levy Court v. Coroner*, 69 U.S. 501 (2 Wall.) 507, 17 L.Ed. 851.

Levying war. In criminal law, the assembling of a body of men for the purpose of effecting by force a treasonable object; and all who perform any part, however minute, or however remote from the scene of action, and who are leagued in the general conspiracy, are considered as engaged in levying war, without the meaning of the constitution. Art. III, § 3. U.S. Constitution. See also **Insurrection**.

The words include forcible opposition, as the result of a combination of individuals, to the execution of any public law of the United States; and to constitute treason within the Federal Constitution, there must be a combination of individuals united for the common purpose of forcibly preventing the execution of

Table of Contents

Priority Over State and Local Tax Liens • 27(17)	General • 333.1
Priority Over Right of Set-Off • 27(18)	Administration Discretion • 333.2
Priority of Tax Liens: Subrogation • 280	Effect of Insolvency • 333.3
Circular Priority • 290	Effect of Bankruptcy • 333.4
Discharge of Property From the Effect of the Tax Lien • 2(10)0	Invalid Seizure • 333.5
Statutory Authority • 2(10)1	Erroneous Release of Lien • 333.6
Non-Judicial Foreclosure by Senior Competing Lienor • 2(10)2	Notice of Levy • 334
Release of Lien • 2(11)0	General • 334.1
Conclusive Effect • 2(11)1	Final Demand • 334.2
Effect of Offer in Compromise • 2(11)2	Seizure • 334.3
Certificate of Non-Attachment • 2(12)0	Tangibles—Intangibles • 334.4
Subordination of Lien • 2(13)0	Suits Against Third Party • 334.5
The Estate Tax Lien • 2(14)0	Offset • 334.6
Relationship to the General Tax Lien • 2(14)1	Third Party • 334.7
When and How it Arises • 2(14)2	Defenses • 334.8
Duration and Extent of the Estate Tax Lien • 2(14)3	Saved Harmless • 334.9
Property to Which it Attaches • 2(14)4	Interference with Levy • 335
Divestment of Property From the Estate Tax Lien • 2(14)5	General • 335.1
The Gift Tax Lien • 2(15)0	Officer • 335.2
Relationship to the General Tax Lien • 2(15)1	Rescue • 335.3
When and How it Arises • 2(15)2	Injunction • 335.4
Property to Which it Attaches • 2(15)3	Replevin • 335.5
Divestment of Property From the Gift Tax Lien • 2(15)4	Redemption • 336
	General • 336.1
	Before Sale • 336.2
	After Sale • 336.3
	Release of Levy and Return of Property • 337
	General • 337.1
	Conditions Precedent • 337.2
	Effect of Release • 337.3
	Wrongful Levy • 337.4
300	Sale • 338
Levy and Sale	Authority • 338.1
General • 310	Custody of Property • 338.2
Characteristics • 311	General • 338.21
Nature • 312	Before Sale • 338.22
Creation • 313	After Sale • 338.23
Authority • 313.1	Benefits from Property • 338.24
Power Vested in Whom? • 313.2	Attachment—Execution • 338.25
Conditions Precedent • 313.3	Conditions Precedent • 338.3
Jeopardy and Termination Cases • 313.4	General • 338.31
Notice and Demand • 313.5	Notice of Seizure • 338.32
Notice of Intention to Levy • 313.6	Notice of Sale • 338.33
Scope • 314	Time of Sale—Postponement/Adjournment • 338.34
Levy • 314.1	Jeopardy • 338.35
Property and Rights to Property • 314.2	Manner of Sale • 338.4
Property Subject to Lien • 314.3	General • 338.41
Effect of Levy • 314.4	Items—Lots—Aggregate • 338.42
Limitations On Use Of Levy • 314.5	Acceptance of Bid—Payment • 338.43
Custodia Legis • 314.6	Invalid Sale • 338.44
Exemptions • 320	Warranties • 338.5
General • 321	Certificate of Sale—Deed of Property • 338.6
Federal • 322	General • 338.61
State • 323	Delivery of Possession • 338.62
Procedure • 330	Disclosure of Purchasers • 338.63
General • 331	United States as Purchaser • 338.64
Constitutional Limitations • 332	Junior-Senior Lienors • 338.65
Levy or Seizure • 333	Application of Sale Proceeds • 338.7

Marshal were attached as a result of court process, it would be generally in custodia legis and may not be levied upon. *Averil v. Smith*, 84 U.S. (17 Wall) 82, 21 L.Ed. 613 (1873). Property seized in violation of the Fourth Amendment of the Constitution (unlawful search and seizure), although suppressed as evidence in a criminal proceeding, may be levied upon. *Field v. United States*, 263 F. 2d 758 (5th Cir. 1959), cert. denied, 360 U.S. 918 (1959). Although property may be in custodia legis, the federal tax lien attaches to such property, even though the property may not be levied upon. *Welsh v. United States*, 220 F. 2d 200 (D.C. Cir. 1955).

(5) Alimony payments made through a clerk of the court under a court order are not in custodia legis and may be levied upon. Property in the hands of an assignee for the benefit of creditors not under court supervision is subject to levy to the extent federal tax liens attached to the property before the assignment date. Notice of levy served upon a bank is ineffective to reach funds of a taxpayer the day following appointment by a court of a receiver of the taxpayer's assets. *United States v. Peoples Sav. Bk. & Trust Co. of Wilmington, N.C.*, 55-2 U.S.T.C. 55,683 (E.D.N.C. 1955).

(6) Summarizing, if retention of property is necessary to the exercise of the court's power or jurisdiction, the property is in custody of the court and should not be levied. Property may appear to be in custodia legis in a great variety of circumstances where a levy might be proper and effective. Because of the laws of the different states, which may vary considerably, refer doubtful cases to District Counsel for an opinion.

320 (11-15-85) 57(16)0
Exemptions

321 (11-15-85) 57(16)0
General

In general, all property or rights to property of the taxpayer or property on which there is a tax lien, are subject to levy for the collection of delinquent taxes. However, there are exemptions which are binding upon the Government.

322 (2-9-90) 57(16)0
Federal

(1) IRC 6331(a) authorizes levy upon the taxpayer's property or rights to property or property on which there is a tax lien, except property

exempted under IRC 6334. IRC 6334(a) exempts from levy: wearing apparel and school books; fuel, provisions, furniture, and personal effects of the head of a family; books and tools of trade, business or profession; unemployment benefits; undelivered and unopened mail in the possession of the Post Office; annuity or pension payments under the Railroad Retirement Act; benefits under the Railroad Unemployment Insurance Act; special benefits payable to Medal of Honor recipients; annuities based upon retired or retainer pay paid under the retired servicemen's family protection plan; amounts paid as workmen's compensation (including amounts payable with respect to dependents) under the laws of the United States, any State, the District of Columbia, or Puerto Rico; so much of salary, wages, or other income as is necessary to comply with a judgment of a court requiring the taxpayer to contribute to the support of his/her minor children, where such judgment was entered prior to the date of the levy; certain public assistance payments; assistance under the Job Training Partnership Act; the taxpayer's principal residence except with certain approval or jeopardy; and an amount determined under IRC 6334(d) as a minimum exempt amount of wages, salary, or other income.

(2) With the exception of undelivered mail, unemployment benefits, workmen's compensation, public assistance payments, Job Training Partnership Act payments, the taxpayer's principal residence, specified annuity and pension payments, exempted categories are limited in terms of value, necessity or both. Therefore, wearing apparel of a taxpayer is not exempt from levy if his/her whereabouts are unknown for an unreasonable length of time, since an apparent abandonment of the apparel would indicate that the clothing is not necessary for the taxpayer or members of his/her family. Also, if a taxpayer's household goods and tools of trade are sold by a chattel mortgagee, a levy may be made on any surplus proceeds, even though a levy could not have been made upon the property itself.

(3) Other than undelivered mail, annuity, pension, workmen's compensation payments, public assistance payments, job training payments, salaries, wages, and other income required for child support and as a minimum exemption, the exemptions enumerated in IRC 6334(a) are specific types of commodities. Undelivered mail, annuity, pension, workmen's compensation payments, public assistance

314.6

MT 57(16)0-7

IR Manual

payments, job training payments, and support payments, however, depart from the statutory scheme and are exempted by virtue of their nature or source. The unemployment benefit exemption has been strictly construed and does not encompass retirement and survivor's benefits or disability insurance payments under the Social Security Act. *Kane v. Burlington Savings Bank*, 320 F. 2d (2d Cir. 1963), cert. denied, 375 U.S. 912 (1963). Under Policy Statement P-5-30, however, levies on benefit income such as social security benefits, pensions of veterans, benefits under the GI Bill of Rights, etc., should only be made in flagrant or aggravated instances of neglect or refusal to pay.

323 (1-14-87) 57(16)0
State

The law of the state determines the nature and extent of property, but once it has been determined that state law created property or a right to property in the taxpayer, state law is inoperative to prevent the attachment of the federal tax lien, *United States v. Bess*, 357 U.S. 51(1958); nor can exemptions under state law prevent the seizure of such property by levy to enforce collection of taxes.

330 (11-15-85) 57(16)0
Procedure

331 (2-9-90) 57(16)0
General

Consideration must now be given to the application or use of the power to levy upon property or rights to property as a means of enforcing collection of taxes. It is not the purpose of this section to describe the step-by-step actions to be taken by a revenue officer in levying upon and seizing property, since such material is in Part V of the IR Manual. Emphasis will be placed solely on legal complications which may arise through use of levy procedures.

332 (1-14-87) 57(16)0
Constitutional Limitations

(1) During the course of administratively collecting a tax, an occasion may arise where service of a levy or notice of levy is not adequate to seize property of the taxpayer. However, it cannot be emphasized too strongly that constitutional guarantees and individual rights must not be violated. Property should not be forcibly removed from the person of a taxpayer. Such conduct may expose a revenue officer to an

action in trespass, assault and battery, conversion, etc. *Larson v. Domestic and Foreign Commerce Corp.*, 337 U.S. 682 (1949), rehearing denied, 337 U.S. 682 (1949). *Maule Industries v. Tomlinson*, 224 F. 2d 897, (5th Cir. 1949). If there is reason to suspect an interference with a levy, the matter should be referred for proper legal action against the offending party. Remedies available to the Government, as contained in the Code and other statutes, are more than adequate to cope with the problem.

(2) The Supreme Court in *G.M. Leasing Corp. v. United States*, 429 U.S. 336(1977) held that an entry without a warrant by the Internal Revenue Service onto private property of a person in which that person has a reasonable expectation of privacy for the purpose of seizing property to satisfy a tax liability is a violation of that person's rights under the Fourth Amendment to the Constitution. Before levies or seizures of property located on such property are made, permission of the occupant of the premises on which the seizure is to take place must be obtained. If the occupant refuses to permit the entry, the matter should be referred to District Counsel so that a court order authorizing the entry may be obtained.

(3) The Fourth Amendment to the Constitution, forbidding unreasonable searches and seizures, does not guarantee that illegally seized property, although suppressed as evidence in a criminal proceeding, must be returned to the owner and, therefore, such property may be levied upon. See 314.6:(4). A similar result occurs if property is illegally seized by state or local authorities for purposes of criminal prosecution and is suppressed as evidence.

(4) It has been held that the collection of taxes by levy prior to a hearing is not a violation of procedural due process. See *Fuentes v. Shevin*, 407 U.S. 67(1972).

333 (11-15-85) 57(16)0
Levy or Seizure

333.1 (1-14-87) 57(16)0
General

Whenever the term "levy" is mentioned in this Chapter, it is used as defined in the Code; i.e., "the power of distraint and seizure by any means." Whether a levy, or notice of levy, is the administrative method employed to collect delinquent taxes, it should be borne in mind that a

IR Manual
Exhibit C 3 of 6

levy requires that the property levied upon be brought into legal custody through seizure. There must be actual or constructive physical appropriation of the property levied upon. Mere intent to reduce to possession and control is insufficient. *Freeman v. Mayer*, (152 F. Supp. 383 (D.N.J. 1957), *aff'd*, 253 F. 2d 295 (3d Cir. 1968)). "Constructive seizure" is effected through posting, tagging, inventorying, and leaving the specific property item temporarily in the custody of the taxpayer or other party who is thereby made a bailee holding the property for the Government.

333.2 (11-15-85) 57(16)0
Administration Discretion

Whether to levy, or not to levy and resort to another course of action is a matter of discretion within the jurisdiction of the District Director and his/her collection personnel. If the Government wishes to resort to a levy to collect taxes, a suit may not be brought to compel the United States to first reduce its tax claim to judgment. *Kearney v. United States*, 210 F. Supp. 10, (S.D.N.Y. 1962), *aff'd per curiam*, 309 F. 2d 487 (2d Cir. 1962).

333.3 (1-14-87) 57(16)0
Effect of Insolvency

(1) The statute of limitations on collection is suspended during the period the assets of the taxpayer are in control or custody of any court in an insolvency proceeding and for six months thereafter. IRC 6503(b). Insolvency proceedings are those proceedings under the Bankruptcy Code (see 333.4 and chapter 900 and (10)00) as well as those under state law, if they are subject to control and supervision of a court (e.g., assignment for the benefit of creditors, receivership). Once an insolvency proceeding is commenced (voluntary or involuntary) a levy on property or rights to property of the taxpayer existing on the date the proceeding was commenced is ineffective, regardless of whether served upon the taxpayer, or representative of the insolvent taxpayer. *Freeman v. Mayer*, *supra*. However, it is arguable that in non-bankruptcy proceedings property or rights to property levied upon prior to the insolvency proceeding are not subject to the control of the court or fiduciary. *Phelps v. United States*, 421 US 330 (1975); *United States v. Pittman*, 449 F. 2d 623 (7th Cir. 1971); *United States v. Rosenb-*

lum, 300 F. 2d 843 (1st Cir. 1962); *United States v. Eiland*, 223 F. 2d 118 (4th Cir. 1955). *But, cf., United States v. Whiting Pools, Inc.*, 462 U.S. 198, (1983) (property seized before bankruptcy may be brought back into the bankruptcy proceeding).

(2) Although most of the assets of a taxpayer may be in custodia legis, property not in custodia legis, because exempt by law, may be levied upon or a suit may be instituted to foreclose a federal tax lien. The suspension provisions of IRC 6503(b) are applicable with respect to the entire assessment and the taxes can be collected from all the taxpayer's property or rights to property which is not at the time of collection within the jurisdiction of the court.

(3) The period of suspension is terminated six months after the date the assets of the bankrupt are no longer in custodia legis. Generally, in a judicial proceeding, when the court by some act of its own relinquishes its jurisdiction over the property, the property may no longer be considered in custodia legis, notwithstanding the necessity of others to perform certain functions with respect to the property in question.

333.4 (1-14-87) 57(16)0
Effect of Bankruptcy

(1) Under the Bankruptcy Code the statute of limitations on collection is suspended for the period during which the Secretary is prohibited by reason of the bankruptcy case from collecting the liability, plus 6 months thereafter. The Service may be prevented from collecting the liability for any one of several reasons, including the automatic stay imposed by Bankruptcy Code Section 362, because it is bound by the terms of a repayment plan pursuant to Bankruptcy Code Section 1141(a), or because the court has issued an order prohibiting the Service from exercising its collection powers.

(2) Under Bankruptcy Code Section 362(a) upon the filing of a bankruptcy petition, the Service is automatically stayed from taking any act to perfect or enforce a lien against property of the estate or to collect a claim against the debtor.

(3) If levied-upon property has not been sold or credited to the taxpayer's account before the taxpayer files for bankruptcy, the trustee can under some circumstances obtain an order directing the Service to turn over property to the trustee if it provides "adequate protection" for the Service's interest in the seized property.

(4) For a more complete discussion of the effect of bankruptcy, see the section on bankruptcy in Chapters 900 and (10)00.

333.5 (1-14-87)

57(16)0

Invalid Seizure

Since the Code limits the period in which taxes may be collected, a levy upon property after the expiration of the statute of limitations is invalid. *United States v. Havner*, 101 Fed. 2d 161 (8th Cir. 1939). In addition, mere notice of intent to levy does not result in actual or constructive possession through seizure. There can be no levy in the absence of service of levy or notice of levy upon the taxpayer or third party. *United States v. O'Dell*, 160 F. 2d 304 (6th Cir. 1947). A levy upon property of a taxpayer before giving notice and demand or before neglect or refusal to pay the tax within 10 days after notice and demand (except in jeopardy cases) is invalid. *Mrizek v. Long*, 187 F. Supp. 830 (N.D. Ill. 1959). A levy made on property of one person to satisfy tax liability of another is invalid. *Maule Industries v. Tomlinson*, 244 F. 2d 897 (5th Cir. 1957). Also, property of a third party in the hands of a taxpayer may not be levied upon to satisfy the taxpayer's liabilities. *Stuart v. Chinese Chamber of Commerce of Phoenix*, 168 F. 2d 709, (9th Cir. 1958). A levy made prior to a final decision of the Tax Court is invalid, unless made pursuant to a jeopardy assessment, as previously discussed. *Dierks v. United States*, 215 F. Supp. 338 (S.D.N.Y. 1963). Finally a levy is not complete in the absence of seizure of the property in question so as to obtain possession (actual or constructive) of such property. *Henkin v. United States*, 229 F. 2d 895 (2d Cir. 1956).

333.6 (1-14-87)

57(16)0

Erroneous Release of Lien

(1) On occasion, a certificate of release of lien, discharge of property from a lien, or nonattachment of lien may be issued erroneously. IRC 6325(f)(1) provides that in the case of a certificate of release of lien, the certificate shall be conclusive that the tax lien referred to in the certificate is extinguished. In the case of a certificate of discharge, it is provided that such certificate shall be conclusive that the property covered by the certificate is discharged from the tax lien. However, such provisions do not affect the basic tax liability and merely because it is conclusive that the lien upon certain property is extinguished, it is not conclusive that the

tax liability has been satisfied. *Commissioner of Internal Revenue v. Angier Corporation*, 50 F. 2d 887 (1st Cir. 1931), cert. denied, 284 U.S. 673 (1931). The conclusiveness of the extinguishment of the tax lien as to property covered by the issuance of a certificate of release or discharge applies to a third party acquiring an interest in the property formerly subject to such lien. *Brittle v. United States*, 209 F. Supp. 409 (S.D. Cal. 1962). Therefore, levy may be made upon property which was subject to the issuance of an erroneous certificate of release of lien or discharge of property from a lien, provided third parties have not acquired the property in question. As previously discussed in Chapter 200, IRC 6325(f)(2) provides that a certificate of release or non-attachment of lien issued erroneously or improvidently, or pursuant to a collateral agreement entered into in connection with an offer in compromise which has been breached, and the period of limitations on collection after assessment has not expired, such certificate may be revoked and the tax lien reinstated. NOTE: This provision does not apply to the issuance of a certificate of discharge. As of the effective date of reinstatement, a reinstated lien has the same force and effect as a general tax lien which arises upon assessment of a tax liability. Thus, the reinstated lien shall not be valid against any holder of a lien or interest described in IRC 6323(a) until notice thereof has been filed in accordance with the provisions of IRC 6323(f) subsequent to the time the reinstated lien became effective. However, the reinstated lien is subject to the same limitations as the extinguished lien and, absent any extension on collection, the reinstated lien will become unenforceable by reason of lapse of time six years after the date the tax liability was assessed.

(2) To summarize, the right to levy upon property which was subject to the issuance of an erroneous certificate of release of lien or discharge of property from a lien is subject to the intervening rights of third parties in the property in question. However, the effect of IRC 6325(f)(2) is to reinstate the Government's lien priority as of the effective date of reinstatement of the tax lien in the case where it has been extinguished by the issuance of a certificate of release or non-attachment erroneously or improvidently. The reinstated lien shall prime all subsequently arising interests except that it shall not be valid as against any holder of a lien

or interest as described in IRC 6323(a) until notice thereof is duly filed after the time the reinstated lien became effective. Where there is a question as to the extent of the intervening rights, the advice of District Counsel should be sought prior to levy.

334 (11-15-85) 57(16)0
Notice of Levy

334.1 (11-15-85) 57(16)0
General

The Code does not set forth the manner in which levy is to be made. IRC 6331(b) merely defines the term to include "the power of distraint and seizure by any means." *Treas. Regs. 301.6331-1(a)(1)* states, "levy may be made by serving a notice of levy on any person in possession of, or obligated with respect to property or rights to property subject to levy"

334.2 (2-9-80) 57(16)0
Final Demand

When a notice of levy is served upon a third party and there is no response or a refusal to comply, it is followed by service of a Final Demand (Form 668-C). IRC 6332(a) states that except as otherwise provided in subsection (b), (which contains a special rule for life insurance and endowment contracts) and subsection (c), (which contains a special rule for banks requiring a 21-day delay before payment for the levy is sent, with interest) a person in possession of property or rights to property upon which levy has been made shall, upon demand, surrender such property. IRC 6332(a) permits two defenses for noncompliance; the property or rights to property are not property of the taxpayer and the property is subject to prior judicial attachment or execution. The demand is contained in the Notice of Levy (Form 668-A) and the Notice of Levy on Wages, Salary, and Other Income (Form 668-W). A Notice of Final Demand (Form 668-C) although in general use, is not required to be served under the Code. In the event the Final Demand is not complied with, a suit for failure to honor levy under IRC 6332(d) would be appropriate.

334.3 (1-14-87) 57(16)0
Seizure

(1) To effect a levy upon tangible property there must be a seizure of the property levied

333.6 MT 57(16)0-5

IR Manual

upon; that is, the taxpayer's property must be reduced to possession and control (actual or constructive). *United States v. O'Dell* 160 F. 2d 304 (6th Cir. 1947); *Freeman v. Mayer*, 152 F. Supp. 383 (D.N.J. 1957). *aff'd*, 253 F. 2d 295 (3rd Cir. 1958). Seizure would be analogous to levy of execution by a judgment-creditor where the officer must not only have the property in view, but also within his/her power and must exercise such dominion over it as to make him/her a trespasser, except for the protection of legal process. The size, bulk or quantity of property may prevent its removal upon seizure, but sufficient steps must be taken to evidence constructive possession. Property capable of removal, such as an automobile should be removed.

(2) As previously indicated, force should not be used in seizing property of a taxpayer. The same reasoning applies where property has been levied upon and seized and, at some later date, it is sought to remove the levied property to another location or to sell such property. Local or other law enforcement authorities may be contacted to assist the revenue officer in performing his/her duties. Also, resort can be had to the courts to restrain the taxpayer or third party from interfering with such removal or sale.

334.4 (1-14-87) 57(16)0
Tangibles—Intangibles

Levying upon and seizing tangible personal property presents few legal as opposed to practical difficulties. Such property is generally capable of being reviewed and physically seized and, if conditions warrant, of being removed for safe keeping pending sale. (Real property is, of course, not susceptible of removal. Thus, posting of a notice of levy along with notification to the owner, tenant or occupant amounts to dominion.) Problems arise with respect to intangibles; e.g., accounts receivable, debts, promissory notes, and stocks, as a few examples. The best approach to a levy and seizure of intangibles is to do everything possible to constructively reduce the intangible to possession. Seizure of everything in taxpayer's place of business, padlocking premises and posting notices of distraint for taxes did not constitute a levy upon certain accounts receivable owing the taxpayer, since no steps were taken "to establish possessory dominion" over any sums owed the taxpayer. *Freeman v. Mayer, supra*. (Service of notice of levy upon the taxpayer's debtors would have been sufficient in this case.) Where

Exhibit C 6 of 6

LII

legal information institute

US CODE COLLECTION

[collection home](#)

TITLE 26 > Subtitle F > CHAPTER 78 > Subchapter A > Sec. 7608.

Sec. 7608. - Authority of internal revenue enforcement officers

(a) Enforcement of subtitle E and other laws pertaining to liquor, tobacco, and firearms

Any investigator, agent, or other internal revenue officer by whatever term designated, whom the Secretary charges with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of subtitle E or of any other law of the United States pertaining to the commodities subject to tax under such subtitle for the enforcement of which the Secretary is responsible may -

(1)

carry firearms;

(2)

execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States;

(3)

in respect to the performance of such duty, make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed, or is committing, such felony; and

(4)

in respect to the performance of such duty, make seizures of property subject to forfeiture to the United States.

Exhibit 01.7

(b) Enforcement of laws relating to internal revenue other than subtitle E

(1)

Any criminal investigator of the Intelligence Division of the Internal Revenue Service whom the Secretary charges with the duty of enforcing any of the criminal provisions of the internal revenue laws, any other criminal provisions of law relating to internal revenue for the enforcement of which the Secretary is responsible, or any other law for which the Secretary has delegated investigatory authority to the Internal Revenue Service, is, in the performance of his duties, authorized to perform the functions described in paragraph (2).

(2)

The functions authorized under this subsection to be performed by an officer referred to in paragraph (1) are -

(A)

to execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States;

(B)

to make arrests without warrant for any offense against the United States relating to the internal revenue laws committed in his presence, or for any felony cognizable under such laws if he has reasonable grounds to believe that the person to be arrested has committed or is committing any such felony; and

(C)

to make seizures of property subject to forfeiture under the internal revenue laws.

(c) Rules relating to undercover operations

(1) Certification required for exemption of undercover operations from certain laws

With respect to any undercover investigative operation of the Internal Revenue Service (hereinafter in this subsection referred to as the "Service") which is necessary for the detection and prosecution of offenses under the internal revenue laws, any other criminal provisions of law relating to internal revenue, or any other law for which the Secretary has delegated investigatory authority to the Internal Revenue Service -

Exhibit D 207

(A)

sums authorized to be appropriated for the Service may be used -

(i)

to purchase property, buildings, and other facilities, and to lease space, within the United States, the District of Columbia, and the territories and possessions of the United States without regard to -

(I)

sections 1341 and 3324 of title 31, United States Code,

(II)

sections 11(a) and 22 of title 41, United States Code,

(III)

section 255 of title 41, United States Code,

(IV)

section 34 of title 40, United States Code, and

(V)

section 254(a) and (c) ^[1] of title 41, United States Code, and

(ii)

to establish or to acquire proprietary corporations or business entities as part of the undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 9102 and 9103 of title 31, United States Code;

(B)

sums authorized to be appropriated for the Service and the proceeds from the undercover operations may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code, and

(C)

Exhibit D 3 of 7

the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3302 of title 31, United States Code.

This paragraph shall apply only upon the written certification of the Commissioner of Internal Revenue (or, if designated by the Commissioner, the Deputy Commissioner or an Assistant Commissioner of Internal Revenue) that any action authorized by subparagraph (A), (B), or (C) is necessary for the conduct of such undercover operation.

(2) Liquidation of corporations and business entities

If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value over \$50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance as the Commissioner or his delegate determines is practicable, shall report the circumstances to the Secretary. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) Deposit of proceeds

As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (B) and (C) of paragraph (1) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(4) Audits

(A)

The Service shall conduct a detailed financial audit of each undercover investigative operation which is closed in each fiscal year; and

(i)

submit the results of the audit in writing to the Secretary; and

(ii)

not later than 180 days after such undercover

Exhibit 0 4 of 7

operation is closed, submit a report to the Congress concerning such audit.

(B)

The Service shall also submit a report annually to the Congress specifying as to its undercover investigative operations -

(i)

the number, by programs, of undercover investigative operations pending as of the end of the 1-year period for which such report is submitted;

(ii)

the number, by programs, of undercover investigative operations commenced in the 1-year period for which such report is submitted;

(iii)

the number, by programs, of undercover investigative operations closed in the 1-year period for which such report is submitted, and

(iv)

the following information with respect to each undercover investigative operation pending as of the end of the 1-year period for which such report is submitted or closed during such 1-year period -

(I)

the date the operation began and the date of the certification referred to in the last sentence of paragraph (1),

(II)

the total expenditures under the operation and the amount and use of the proceeds from the operation,

(III)

a detailed description of the operation including the potential violation being investigated and whether the operation is being conducted under grand jury auspices, and

Exhibit 05 of 7

(IV)

the results of the operation including the results of criminal proceedings.

(5) Definitions

For purposes of paragraph (4) -

(A) Closed

The term "closed" means the date on which the later of the following occurs;

(i)

all criminal proceedings (other than appeals) are concluded, or

(ii)

covert activities are concluded, whichever occurs later.

(B) Employees

The term "employees" has the meaning given such term by section 2105 of title 5, United States Code.

(C) Undercover investigative operation

The term "undercover investigative operation" means any undercover investigative operation of the Service; except that, for purposes of subparagraphs (A) and (C) of paragraph (4), such term only includes an operation which is exempt from section 3302 or 9102 of title 31, United States Code.

(6) Application of section

The provisions of this subsection -

(A)

shall apply after November 17, 1988, and before January 1, 1990, and

(B)

shall apply after the date of the enactment of this paragraph and before January 1, 2006.

All amounts expended pursuant to this subsection during the period described in subparagraph (B) shall be recovered to the extent possible, and deposited in the Treasury of the United States as miscellaneous receipts, before January 1, 2006

Exhibit D of 7

Parallel authorities for 26 USC 7608 (from CFR)

[NB: because this service is automated, and the information it uses relatively volatile, this listing may not be complete and is presented for reference only. You may want to consult the House of Representatives parallel table of authorities for a complete listing.]

- 27 CFR part 70
 - 27 CFR part 170
 - 27 CFR part 296
-

Exhibit 0 7097

Sec. 7301. - Property subject to tax

(a) Taxable articles

Any property on which, or for or in respect whereof, any tax is imposed by this title which shall be found in the possession or custody or within the control of any person, for the purpose of being sold or removed by him in fraud of the internal revenue laws, or with design to avoid payment of such tax, or which is removed, deposited, or concealed, with intent to defraud the United States of such tax or any part thereof, may be seized, and shall be forfeited to the United States.

(b) Raw materials

All property found in the possession of any person intending to manufacture the same into property of a kind subject to tax for the purpose of selling such taxable property in fraud of the internal revenue laws, or with design to evade the payment of such tax, may also be seized, and shall be forfeited to the United States.

(c) Equipment

All property whatsoever, in the place or building, or any yard or enclosure, where the property described in subsection (a) or (b) is found, or which is intended to be used in the making of property described in subsection (a), with intent to defraud the United States of tax or any part thereof, on the property described in subsection (a) may also be seized, and shall be forfeited to the United States.

(d) Packages

All property used as a container for, or which shall have contained, property described in subsection (a) or (b) may also be seized, and shall be forfeited to the United States.

(e) Conveyances

Any property (including aircraft, vehicles, vessels, or draft animals) used to transport or for the deposit or concealment of property described in subsection (a) or (b), or any property used to transport or for the deposit or concealment of property which is intended to be used in the making or packaging of property described in subsection (a), may also be seized, and shall be forfeited to the United States

Parallel authorities for 26 USC 7301 (from CFR)

[NB: because this service is automated, and the information it uses relatively volatile, this listing may not be complete and is presented for reference only. You may want to consult the House of Representatives parallel table of authorities for a complete listing.]

- There appear to be no parallel authorities in CFR for this section (26 USC 7301).

Exhibit E 2012

Parallel authorities for 26 USC 7302 (from CFR)

[NB: because this service is automated, and the information it uses relatively volatile, this listing may not be complete and is presented for reference only. You may want to consult the House of Representatives parallel table of authorities for a complete listing.]

- 27 CFR part 24
- 27 CFR part 252

Exhibit F 2 of 2

LII

legal information institute

US CODE COLLECTION

collection home

TITLE 26 > Subtitle F > CHAPTER 75 > Subchapter C > PART I > Sec. 7302.

Sec. 7302. - Property used in violation of internal revenue laws

It shall be unlawful to have or possess any property intended for use in violating the provisions of the internal revenue laws, or regulations prescribed under such laws, or which has been so used, and no property rights shall exist in any such property. A search warrant may issue as provided in chapter 205 of title 18 of the United States Code and the Federal Rules of Criminal Procedure for the seizure of such property. Nothing in this section shall in any manner limit or affect any criminal or forfeiture provision of the internal revenue laws, or of any other law. The seizure and forfeiture of any property under the provisions of this section and the disposition of such property subsequent to seizure and forfeiture, or the disposition of the proceeds from the sale of such property, shall be in accordance with existing laws or those hereafter in existence relating to seizures, forfeitures, and disposition of property or proceeds, for violation of the internal revenue laws

Exhibit F 1 of 2

LII

legal information institute

US CODE COLLECTION

[collection home](#)

TITLE 26 > Subtitle F > CHAPTER 75 > Subchapter C > PART I > Sec. 7303.

Sec. 7303. - Other property subject to forfeiture

There may be seized and forfeited to the United States the following:

(1) Counterfeit stamps

Every stamp involved in the offense described in section 7208 (relating to counterfeit, reused, cancelled, etc., stamps), and the vellum, parchment, document, paper, package, or article upon which such stamp was placed or impressed in connection with such offense.

(2) False stamping of packages

Any container involved in the offense described in section 7271 (relating to disposal of stamped packages), and of the contents of such container.

(3) Fraudulent bonds, permits, and entries

All property to which any false or fraudulent instrument involved in the offense described in section 7207 relates

Exhibit G 1 of 2

Parallel authorities for 26 USC 7303 (from CFR)

[NB: because this service is automated, and the information it uses relatively volatile, this listing may not be complete and is presented for reference only. You may want to consult the House of Representatives parallel table of authorities for a complete listing.]

- There appear to be no parallel authorities in CFR for this section (26 USC 7303).

Exhibit 6 2 of 2

Rule 41 Search and Seizure

- A. There have been volumes of information written, along with thousands of cases, dealing with search and seizure.
- B. The next four pages deal with this important topic indicating that there must be a seizure before a levy can take place. Are they using the levy as the seizure?
- C. Where is the affidavit that has to be filed with the court?
- D. Why is it that a warrant is seldom filled out correctly?
- E. If you read page 67 item (1) Warrant upon Affidavit, the agents can use hearsay evidence in whole or in part for the finding of probable cause.
- F. Who does this federal magistrate judge actually have jurisdiction over?
- G. Be aware that most magistrate judges will approve a search warrant even though the affidavit is written on used toilet paper. That could be the very reason they refuse you a copy of that affidavit when you ask for it.
- H. We will be doing a later “VIP Dispatch” just on Search and Seizure, but we wanted to make you aware of Criminal Rule 41 and what it actually says as it is tied into the levy and lien process.



▶Rule▶41◀, Search and Seizure

(a) Authority To Issue Warrant.

Upon the request of a federal law enforcement officer or an attorney for the government, a search warrant authorized by this rule may be issued (1) by a federal magistrate judge, or a state court of record within the federal district, for a search of property or for a person within the district and (2) by a federal magistrate judge for a search of property or for a person either within or outside the district if the property or person is within the district when the warrant is sought but might move outside the district before the warrant is executed.

(b) Property or Persons Which May Be Seized With a Warrant.

A warrant may be issued under this rule to search for and seize any (1) property that constitutes evidence of the commission of a criminal offense; or (2) contraband, the fruits of crime, or things otherwise criminally possessed; or (3) property designed or intended for use or which is or has been used as the means of committing a criminal offense; or (4) person for whose arrest there is probable cause, or who is unlawfully restrained.

(c) Issuance and Contents.

(1) Warrant Upon Affidavit.

A warrant other than a warrant upon oral testimony under paragraph (2) of this subdivision shall issue only on an affidavit or affidavits sworn to before the federal magistrate judge or state judge and establishing the grounds for issuing the warrant. If the federal magistrate judge or state judge is satisfied that grounds for the application exist or that there is probable cause to believe that they exist, that magistrate judge or state judge shall issue a warrant identifying the property or person to be seized and naming or describing the person or place to be searched. The finding of probable cause may be based upon hearsay evidence in whole or in part. Before ruling on a request for a warrant the federal magistrate judge or state judge may require the affiant to appear personally and may examine under oath the affiant and any witnesses the affiant may produce, provided that such proceeding shall be taken down by a court reporter or recording equipment and made part of the affidavit. The warrant shall be directed to a civil officer of the United States authorized to enforce or assist in enforcing any law thereof or to a person so authorized by the President of the United States. It shall command the officer to search, within a specified period of time not to exceed 10 days, the person or place named for the property or person specified. The warrant shall be served in the daytime, unless the issuing authority, by appropriate provision in the warrant, and for reasonable cause shown, authorizes its execution at times other than daytime. It shall designate a federal magistrate judge to whom it shall be returned.

(2) Warrant Upon Oral Testimony.

(A) General Rule.

If the circumstances make it reasonable to dispense, in whole or in part, with a written affidavit, a Federal magistrate judge may issue a warrant based upon sworn testimony communicated by telephone or other appropriate means, including facsimile transmission.

(B) Application.

The person who is requesting the warrant shall prepare a document to be known as a duplicate original warrant and

shall read such duplicate original warrant, verbatim, to the Federal magistrate judge. The Federal magistrate judge shall enter, verbatim, what is so read to such magistrate judge on a document to be known as the original warrant. The Federal magistrate judge may direct that the warrant be modified.

(C) Issuance.

If the Federal magistrate judge is satisfied that the circumstances are such as to make it reasonable to dispense with a written affidavit and that grounds for the application exist or that there is probable cause to believe that they exist, the Federal magistrate judge shall order the issuance of a warrant by directing the person requesting the warrant to sign the Federal magistrate judge's name on the duplicate original warrant. The Federal magistrate judge shall immediately sign the original warrant and enter on the face of the original warrant the exact time when the warrant was ordered to be issued. The finding of probable cause for a warrant upon oral testimony may be based on the same kind of evidence as is sufficient for a warrant upon affidavit.

(D) Recording and Certification of Testimony.

When a caller informs the Federal magistrate judge that the purpose of the call is to request a warrant, the Federal magistrate judge shall immediately place under oath each person whose testimony forms a basis of the application and each person applying for that warrant. If a voice recording device is available, the Federal magistrate judge shall record by means of such device all of the call after the caller informs the Federal magistrate judge that the purpose of the call is to request a warrant. Otherwise a stenographic or longhand verbatim record shall be made. If a voice recording device is used or a stenographic record made, the Federal magistrate judge shall have the record transcribed, shall certify the accuracy of the transcription, and shall file a copy of the original record and the transcription with the court. If a longhand verbatim record is made, the Federal magistrate judge shall file a signed copy with the court.

(E) Contents.

The contents of a warrant upon oral testimony shall be the same as the contents of a warrant upon affidavit.

(F) Additional Rule for Execution.





The person who executes the warrant shall enter the exact time of execution on the face of the duplicate original warrant.

(G) Motion To Suppress Precluded.

Absent a finding of bad faith, evidence obtained pursuant to a warrant issued under this paragraph is not subject to a motion to suppress on the ground that the circumstances were not such as to make it reasonable to dispense with a written affidavit.

(d) Execution and Return With Inventory.

The officer taking property under the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the applicant for the warrant and the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the applicant for the warrant or the person from whose possession or premises the property was taken and shall be verified by the officer. The federal magistrate judge shall upon request deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(e) Motion for Return of Property.

A person aggrieved by an unlawful search and seizure or by the deprivation of property may move the district court for the district in which the property was seized for the return of the property on the ground that such person is entitled to lawful possession of the property. The court shall receive evidence on any issue of fact necessary to the decision of the motion. If the motion is granted, the property shall be returned to the movant, although reasonable conditions may be imposed to protect access and use of the property in subsequent proceedings. If a motion for return of property is made or comes on for hearing in the district of trial after an indictment or information is filed, it shall be treated also as a motion to suppress under Rule 12 .

(f) Motion To Suppress.

A motion to suppress evidence may be made in the court of the district of trial as provided in Rule 12 .

(g) Return of Papers to Clerk.

The federal magistrate judge before whom the warrant is returned shall attach to the warrant a copy of the return, inventory and all other papers in connection therewith and shall file them with the clerk of the district court for the district in which the property was seized.

(h) Scope and Definition.

This rule does not modify any act, inconsistent with it, regulating search, seizure and the issuance and execution of search warrants in circumstances for which special provision is made. The term "property" is used in this rule to include documents, books, papers and any other tangible objects. The term "daytime" is used in this rule to mean the hours from 6:00 a.m. to 10:00 p.m. according to local time. The phrase "federal law enforcement officer" is used in this rule to mean any government agent, other than an attorney for the government as defined in Rule 54(c) , who is

engaged in the enforcement of the criminal laws and is within any category of officers authorized by the Attorney General to request the issuance of a search warrant.

Rule 42. Criminal Contempt

(a) Summary Disposition.

A criminal contempt may be punished summarily if the judge certifies that the judge saw or heard the conduct constituting the contempt and that it was committed in the actual presence of the court. The order of contempt shall recite the facts and shall be signed by the judge and entered of record.

(b) Disposition Upon Notice and Hearing.

A criminal contempt except as provided in subdivision (a) of this rule shall be prosecuted on notice. The notice shall state the time and place of hearing, allowing a reasonable time for the preparation of the defense, and shall state the essential facts constituting the criminal contempt charged and describe it as such. The notice shall be given orally by the judge in open court in the presence of the defendant or, on application of the United States attorney or of an attorney appointed by the court for that purpose, by an order to show cause or an order of arrest. The defendant is entitled to a trial by jury in any case in which an act of Congress so provides. The defendant is entitled to admission to bail as provided in these rules. If the contempt charged involves disrespect to or criticism of a judge, that judge is disqualified from presiding at the trial or hearing except with the defendant's consent. Upon a verdict or finding of guilt the court shall enter an order fixing the punishment.

Notes



Assessment Prior To Levy

- A. Re-read 26 USC 6331 (page 9): The words “person liable to pay” shows that the power of Levy can be applied only to those persons who are liable for payment of a tax and haven’t paid it.
1. NO MONEY is owed until there is a VALID ASSESSMENT.
 2. The only section that the IRS can reasonably claim as authority to make a valid assessment on “taxable income” is Exhibit A, page 1 of 4, 26 USC 6201(a)(1)(page 75).
 - a. It provides the IRS with authority to make assessments of all taxes for which require returns are made.
 3. Can the IRS make assessments against persons not specified by some section of the IRC as being liable for payment of a tax?
 4. Look at the parallel authorities for 26 USC 6201 (from CFR). Exhibit A, page 4 of 4 (page 78).
- B. We have found no assessment authority for income taxes. And the IRS has never been able to provide their specific authority to assess income taxes.
- C. Now, let’s read two sections in Title 26 that do authorize assessments against “persons liable,” Exhibit B, page 1 of 10, Title 26 USC 5061 and 5703.
1. These sections authorize assessments against “persons liable,” the “taxpayers” for alcohol and tobacco taxes, even though no returns have been filed.
 2. Exhibit B, page 1 of 10, Section 5061- Method of collecting tax, (a) Collection by return: “The taxes on distilled spirits, wines, and beer shall be collected on the basis of a return. The Secretary shall, by regulation, prescribe the period or event for which such return shall be filed, the time for filing such return, the information to be shown in such return, and the time for payment of such tax.”
 - a. This does sound somewhat detailed for these USC Title 27 type of taxes, but where do you find the same detailed type of wording for the so called “income tax”?
 3. Go to Exhibit B, page 5 of 5, and you will find the parallel authorities for 26 USC 5061 (from CFR), all Title 27 CFR’s.

4. Why are these Title 27 references still in 26 USC when they were supposed to be removed in 1972, when Title 27 USC was established?
 5. Exhibit B, page 9 of 10, paragraph (c), the bank of the United States is the Federal Reserve Bank, a quasi-government bank started by Max Warburg and his father-in-law, Jacob Schiff, who actually wrote the Federal Reserve Act for their personal benefit.
 6. Exhibit B, page 9 of 10, paragraph (d) Assessment: Read this several times so you will realize to whom it applies.
- D. Exhibit C, 1 of 2, 26 USC 6303- Notice and demand for tax and Exhibit C, page 2 of 2, Parallel authorities for 26 USC 6303 from (CFR). please go ahead and read them for yourself.
1. A Notice of Assessment and Demand for payment, which is required by IRC section 6303 (Exhibit C, 1 of 2) to be sent within 60 days after making a tax assessment.
 2. The IRS sends only an unsigned demand for payment!
 3. The recipient, maybe you, generally unaware of the required procedures, erroneously assumes that proper and lawful procedures have been followed and the IRS has the authority to make an assessment against you.
- E. The IRS will send a Notice of Levy to a bank or a company and justify the action by claiming that such action was needed to collect a tax.
1. Few people on both sides of this action seem to be able to grasp the fact that the only authority for an assessment of "income tax" is 26 USC 6201(a)(1) (Exhibit A).
 2. That section authorizes the assessment of taxes shown on a return.
 3. If no return is made, the Internal Revenue Service has no grounds to claim authority to make an assessment on "taxable income" imposed by section 1 of the Internal Revenue Code.
- F. Again, there must be a valid assessment and proper procedures must be followed before collection actions are legally authorized.
1. If any agent carries out any action unauthorized by statute, he is acting without lawful authority and in violation of authorized procedure, which for them

becomes criminal, especially if you timely put them on proper administrative notice concerning their actions.

- G. To the amazement of many people that we assist, the IRS just creates false records and inputs incorrect codes into the computer files in order to justify their actions. Many people are becoming aware of these actions through our training.
- H. One such false record they will enter into your file is a SFR (Substitute for Return) if you have failed to file a return and self-assess yourself.
 - 1. You see, a return must be filed so they can have authority to make an assessment.
 - 2. They enter this when confronted with the fact that no returns were filed by you.
- I. The IRS will claim that you forgot so they will file a return for you according to 26 IRC 6020(b). See Exhibit D, page 1 of 2.
 - 1. IRS Manuals mandate agents executing returns under 6020b must certify the accuracy of the dollar amounts shown on them, by signing and inscribing the return with wording indicating that they were prepared under the authority of 6020(b).
 - 2. All of you who have done a FOIA request for a SFR and received one, like many people have received, it usually only contains your name, address, and SSN.
 - 3. There were no:
 - a. Dollar amounts as required
 - b. No signatures as required
 - c. No hand written messages as required
 - d. No rubber stamped message as required
 - 4. How can these returns they trick us with even begin to qualify as legitimate returns?
 - 5. Sometimes in a response to your FOIA request the IRS will send you a 4549 CG or will say that the 4549 CG they sent you was your return.
 - a. Now how big of a pill is that to get down?
 - 6. Exhibit D, page 2 of 2, are the Parallel authorities for 26 USC 6020 (from CFR) which goes to 27 CFR, part 53 and 27 CFR, part 70 not Title 26 CFR.
- J. Agents attempting to levy your funds when you have not been validly assessed or who have failed to follow proper procedure could be subject

not only to Taxpayers Reform and Restructuring Act, Section 1203, but also 26 USC 7214(a)(2), Exhibit E, page 1 of 3.

1. "Who knowingly demands other or greater sums than are authorized by law."
 2. How about Exhibit E, 2 of 3, 7214(a)(7), "who makes or signs any fraudulent entry in any book or makes or signs any fraudulent certificate, return or statement."
- K. This is where your Administrative Notice comes in, preferably before any action is taken against you.
1. Any further attempt by an agent to collect income tax could be considered to be a criminal violation.
- L. How much longer American people will tolerate the perversion of justice that is being committed against them and their loved ones is up to you.

LII

legal information institute

US CODE COLLECTION

collection home

TITLE 26 > Subtitle F > CHAPTER 63 > Subchapter A > Sec. 6201.

Sec. 6201. - Assessment authority

(a) Authority of Secretary

The Secretary is authorized and required to make the inquiries, determinations, and assessments of all taxes (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this title, or accruing under any former internal revenue law, which have not been duly paid by stamp at the time and in the manner provided by law. Such authority shall extend to and include the following:

(1) Taxes shown on return

The Secretary shall assess all taxes determined by the taxpayer or by the Secretary as to which returns or lists are made under this title.

(2) Unpaid taxes payable by stamp

(A) Omitted stamps

Whenever any article upon which a tax is required to be paid by means of a stamp is sold or removed for sale or use by the manufacturer thereof or whenever any transaction or act upon which a tax is required to be paid by means of a stamp occurs without the use of the proper stamp, it shall be the duty of the Secretary, upon such information as he can obtain, to estimate the amount of tax which has been omitted to be paid and to make assessment therefor upon the person or persons the Secretary determines to be liable for such tax.

(B) Check or money order not duly paid

In any case in which a check or money order received under authority of section 6311 as payment for stamps is not duly paid, the unpaid amount may

Exhibit A of 4

be immediately assessed as if it were a tax imposed by this title, due at the time of such receipt, from the person who tendered such check or money order.

(3) Erroneous income tax prepayment credits

If on any return or claim for refund of income taxes under subtitle A there is an overstatement of the credit for income tax withheld at the source, or of the amount paid as estimated income tax, the amount so overstated which is allowed against the tax shown on the return or which is allowed as a credit or refund may be assessed by the Secretary in the same manner as in the case of a mathematical or clerical error appearing upon the return, except that the provisions of section 6213(b)(2) (relating to abatement of mathematical or clerical error assessments) shall not apply with regard to any assessment under this paragraph.

(b) Amount not to be assessed

(1) Estimated income tax

No unpaid amount of estimated income tax required to be paid under section 6654 or 6655 shall be assessed.

(2) Federal unemployment tax

No unpaid amount of Federal unemployment tax for any calendar quarter or other period of a calendar year, computed as provided in section 6157, shall be assessed.

(c) Compensation of child

Any income tax under chapter 1 assessed against a child, to the extent attributable to amounts includible in the gross income of the child, and not of the parent, solely by reason of section 73(a), shall, if not paid by the child, for all purposes be considered as having also been properly assessed against the parent.

(d) Required reasonable verification of information returns

In any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return filed with the Secretary under subpart B or C of part III of subchapter A of chapter 61 by a third party and the taxpayer has fully cooperated with the Secretary (including providing, within a reasonable period of time, access to and inspection of all witnesses, information, and documents within the control of the taxpayer as reasonably requested by the Secretary), the

Exhibit A 2 of 4

TITLE 26 . Subtitle F , CHAPTER 63 , Subchapter A , Sec. 6201.

Secretary shall have the burden of producing reasonable and probative information concerning such deficiency in addition to such information return.

(e)

Deficiency proceedings

For special rules applicable to deficiencies of income, estate, gift, and certain excise taxes, see subchapter B

Exhibit A 3 of 4

Parallel authorities for 26 USC 6201 (from CFR)

[NB: because this service is automated, and the information it uses relatively volatile, this listing may not be complete and is presented for reference only. You may want to consult the House of Representatives parallel table of authorities for a complete listing.]

- 27 CFR part 70

Exhibit A 4 of 4

LII

legal information institute

US CODE COLLECTION

[collection home](#)

TITLE 26 > Subtitle E > CHAPTER 51 > Subchapter A > PART I > Subpart E > Sec. 5061.

Sec. 5061. - Method of collecting tax

(a) Collection by return

The taxes on distilled spirits, wines, and beer shall be collected on the basis of a return. The Secretary shall, by regulation, prescribe the period or event for which such return shall be filed, the time for filing such return, the information to be shown in such return, and the time for payment of such tax.

(b) Exceptions

Notwithstanding the provisions of subsection (a), any taxes imposed on, or amounts to be paid or collected in respect of, distilled spirits, wines, and beer under -

(1)

section 5001(a)(4), (5), or (6),

(2)

section 5006(c) or (d), (3) section 5041(f), (4) section 5043(a)(3), (5) section 5054(a)(3) or (4), or (6) section 5505(a),

shall be immediately due and payable at the time provided by such provisions (or if no specific time for payment is provided, at the time the event referred to in such provision occurs). Such taxes and amounts shall be assessed and collected by the Secretary on the basis of the information available to him in the same manner as taxes payable by return but with respect to which no return has been filed.

(c) Import duties

The internal revenue taxes imposed by this part shall be in addition to any import duties unless such duties are specifically designated as being in lieu of internal revenue

Exhibit B 1 of 10

tax.

(d) Time for collecting tax on distilled spirits, wines, and beer

(1) In general

Except as otherwise provided in this subsection, in the case of distilled spirits, wines, and beer to which this part applies (other than subsection (b) of this section) which are withdrawn under bond for deferred payment of tax, the last day for payment of such tax shall be the 14th day after the last day of the semimonthly period during which the withdrawal occurs.

(2) Imported articles

In the case of distilled spirits, wines, and beer which are imported into the United States (other than in bulk containers) -

(A) In general

The last day for payment of tax shall be the 14th day after the last day of the semimonthly period during which the article is entered into the customs territory of the United States.

(B) Special rule for entry for warehousing

Except as provided in subparagraph (D), in the case of an entry for warehousing, the last day for payment of tax shall not be later than the 14th day after the last day of the semimonthly period during which the article is removed from the 1st such warehouse.

(C) Foreign trade zones

Except as provided in subparagraph (D) and in regulations prescribed by the Secretary, articles brought into a foreign trade zone shall, notwithstanding any other provision of law, be treated for purposes of this subsection as if such zone were a single customs warehouse.

(D) Exception for articles destined for export

Subparagraphs (B) and (C) shall not apply to any article which is shown to the satisfaction of the Secretary to be destined for export.

(3) Distilled spirits, wines, and beer brought into the United States from Puerto Rico

Exhibit 8 2 of 10

States from Puerto Rico

In the case of distilled spirits, wines, and beer which are brought into the United States (other than in bulk containers) from Puerto Rico, the last day for payment of tax shall be the 14th day after the last day of the semimonthly period during which the article is brought into the United States.

(4) Special rule for tax due in September

(A) In general

Notwithstanding the preceding provisions of this subsection, the taxes on distilled spirits, wines, and beer for the period beginning on September 16 and ending on September 26 shall be paid not later than September 29.

(B) Safe harbor

The requirement of subparagraph (A) shall be treated as met if the amount paid not later than September 29 is not less than 11/15 of the taxes on distilled spirits, wines, and beer for the period beginning on September 1 and ending on September 15.

(C) Taxpayers not required to use electronic funds transfer

In the case of payments not required to be made by electronic funds transfer, subparagraphs (A) and (B) shall be applied by substituting "September 25" for "September 26", "September 28" for "September 29", and " 2/3" for " 11/15".

(5) Special rule where due date falls on Saturday, Sunday, or holiday

Notwithstanding section 7503, if, but for this paragraph, the due date under this subsection for payment of tax would fall on a Saturday, Sunday, or a legal holiday (within the meaning of section 7503), such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday (or the immediately following day where the due date described in paragraph (4) falls on a Sunday).

(e) Payment by electronic fund transfer

(1) In general

Any person who in any 12-month period ending

December 31, was liable for a gross amount equal to or exceeding \$5,000,000 in taxes imposed on distilled spirits, wines, or beer by sections 5001, 5041, and 5051 (or 7652), respectively, shall pay such taxes during the succeeding calendar year by electronic fund transfer to a Federal Reserve Bank.

(2) Electronic fund transfer

The term "electronic fund transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.

(3) Controlled groups

(A) In general

In the case of a controlled group of corporations, all corporations which are component members of such group shall be treated as 1 taxpayer. For purposes of the preceding sentence, the term "controlled group of corporations" has the meaning given to such term by subsection (a) of section 1563, except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in such subsection.

(B) Controlled groups which include nonincorporated persons

Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation

Exhibit B 40th / 10

Parallel authorities for 26 USC 5061 (from CFR)

[NB: because this service is automated, and the information it uses relatively volatile, this listing may not be complete and is presented for reference only. You may want to consult the House of Representatives parallel table of authorities for a complete listing.]

- 27 CFR part 19
- 27 CFR part 24
- 27 CFR part 25
- 27 CFR part 250
- 27 CFR part 251
- 27 CFR part 252

Exhibit B 5 of 10

LII

legal information institute

US CODE COLLECTION

[collection home](#)

TITLE 26 > Subtitle E > CHAPTER 52 > Subchapter A > Sec. 5703.

Sec. 5703. - Liability for tax and method of payment

(a) Liability for tax

(1) Original liability

The manufacturer or importer of tobacco products and cigarette papers and tubes shall be liable for the taxes imposed thereon by section 5701.

(2) Transfer of liability

When tobacco products and cigarette papers and tubes are transferred, without payment of tax, pursuant to section 5704, the liability for tax shall be transferred in accordance with the provisions of this paragraph. When tobacco products and cigarette papers and tubes are transferred between the bonded premises of manufacturers and export warehouse proprietors, the transferee shall become liable for the tax upon receipt by him of such articles, and the transferor shall thereupon be relieved of his liability for such tax. When tobacco products and cigarette papers and tubes are released in bond from customs custody for transfer to the bonded premises of a manufacturer of tobacco products or cigarette papers and tubes, the transferee shall become liable for the tax on such articles upon release from customs custody, and the importer shall thereupon be relieved of his liability for such tax. All provisions of this chapter applicable to tobacco products and cigarette papers and tubes in bond shall be applicable to such articles returned to bond upon withdrawal from the market or returned to bond after previous removal for a tax-exempt purpose.

(b) Method of payment of tax

(1) In general

Exhibit B 6 of 10

The taxes imposed by section 5701 shall be determined at the time of removal of the tobacco products and cigarette papers and tubes. Such taxes shall be paid on the basis of return. The Secretary shall, by regulations, prescribe the period or the event for which such return shall be made and the information to be furnished on such return. Any postponement under this subsection of the payment of taxes determined at the time of removal shall be conditioned upon the filing of such additional bonds, and upon compliance with such requirements, as the Secretary may prescribe for the protection of the revenue. The Secretary may, by regulations, require payment of tax on the basis of a return prior to removal of the tobacco products and cigarette papers and tubes where a person defaults in the postponed payment of tax on the basis of a return under this subsection or regulations prescribed thereunder. All administrative and penalty provisions of this title, insofar as applicable, shall apply to any tax imposed by section 5701.

(2) Time for payment of taxes

(A) In general

Except as otherwise provided in this paragraph, in the case of taxes on tobacco products and cigarette papers and tubes removed during any semimonthly period under bond for deferred payment of tax, the last day for payment of such taxes shall be the 14th day after the last day of such semimonthly period.

(B) Imported articles

In the case of tobacco products and cigarette papers and tubes which are imported into the United States -

(i) In general

The last day for payment of tax shall be the 14th day after the last day of the semimonthly period during which the article is entered into the customs territory of the United States.

(ii) Special rule for entry for warehousing

Except as provided in clause (iv), in the case of an entry for warehousing, the last day for payment of tax shall not be later than the 14th day after the last day of the semimonthly period during which the article is removed from the 1st such warehouse.

Exhibit B 7 of 10

(iii) Foreign trade zones

Except as provided in clause (iv) and in regulations prescribed by the Secretary, articles brought into a foreign trade zone shall, notwithstanding any other provision of law, be treated for purposes of this subsection as if such zone were a single customs warehouse.

(iv) Exception for articles destined for export

Clauses (ii) and (iii) shall not apply to any article which is shown to the satisfaction of the Secretary to be destined for export.

(C) Tobacco products and cigarette papers and tubes brought into the United States from Puerto Rico

In the case of tobacco products and cigarette papers and tubes which are brought into the United States from Puerto Rico, the last day for payment of tax shall be the 14th day after the last day of the semimonthly period during which the article is brought into the United States.

(D) Special rule for tax due in September

(i) In general

Notwithstanding the preceding provisions of this paragraph, the taxes on tobacco products and cigarette papers and tubes for the period beginning on September 16 and ending on September 26 shall be paid not later than September 29.

(ii) Safe harbor

The requirement of clause (i) shall be treated as met if the amount paid not later than September 29 is not less than 11/15 of the taxes on tobacco products and cigarette papers and tubes for the period beginning on September 1 and ending on September 15.

(iii) Taxpayers not required to use electronic funds transfer

In the case of payments not required to be made by electronic funds transfer, clauses (i) and (ii) shall be applied by substituting "September 25" for "September 26", "September 28" for "September 29", and " 2/3" for " 11/15".

(E) Special rule where due date falls on Saturday,

Exhibit B 8 of 10

Sunday, or holiday

Notwithstanding section 7503, if, but for this subparagraph, the due date under this paragraph would fall on a Saturday, Sunday, or a legal holiday (as defined in section 7503), such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday (or the immediately following day where the due date described in subparagraph (D) falls on a Sunday).

(3) Payment by electronic fund transfer

Any person who in any 12-month period, ending December 31, was liable for a gross amount equal to or exceeding \$5,000,000 in taxes imposed on tobacco products and cigarette papers and tubes by section 5701 (or 7652) shall pay such taxes during the succeeding calendar year by electronic fund transfer (as defined in section 5061(e)(2)) to a Federal Reserve Bank. Rules similar to the rules of section 5061(e)(3) shall apply to the \$5,000,000 amount specified in the preceding sentence.

(c) Use of government depositories

The Secretary may authorize Federal Reserve banks, and incorporated banks or trust companies which are depositories or financial agents of the United States, to receive any tax imposed by this chapter, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, time, and condition under which the receipt of such tax by such banks and trust companies is to be treated as payment for tax purposes.



(d) Assessment

Whenever any tax required to be paid by this chapter is not paid in full at the time required for such payment, it shall be the duty of the Secretary, subject to the limitations prescribed in section 6501, on proof satisfactory to him, to determine the amount of tax which has been omitted to be paid, and to make an assessment therefor against the person liable for the tax. The tax so assessed shall be in addition to the penalties imposed by law for failure to pay such tax when required. Except in cases where delay may jeopardize collection of the tax, or where the amount is nominal or the result of an evident mathematical error, no such assessment shall be made until and after the person liable for the tax has been afforded reasonable notice and opportunity to show cause, in writing, against such assessment

Exhibit 8 9 of 10

Parallel authorities for 26 USC 5703 (from CFR)

[NB: because this service is automated, and the information it uses relatively volatile, this listing may not be complete and is presented for reference only. You may want to consult the House of Representatives parallel table of authorities for a complete listing.]

- 27 CFR part 270
- 27 CFR part 275
- 27 CFR part 290
- 27 CFR part 295

Exhibit B 10 of 10

TITLE 26 > Subtitle F > CHAPTER 64 > Subchapter A > Sec. 6303.

Sec. 6303. - Notice and demand for tax

(a) General rule

Where it is not otherwise provided by this title, the Secretary shall, as soon as practicable, and within 60 days, after the making of an assessment of a tax pursuant to section 6203, give notice to each person liable for the unpaid tax, stating the amount and demanding payment thereof. Such notice shall be left at the dwelling or usual place of business of such person, or shall be sent by mail to such person's last known address.

(b) Assessment prior to last date for payment

Except where the Secretary believes collection would be jeopardized by delay, if any tax is assessed prior to the last date prescribed for payment of such tax, payment of such tax shall not be demanded under subsection (a) until after such date

Parallel authorities for 26 USC 6303 (from CFR)

[NB: because this service is automated, and the information it uses relatively volatile, this listing may not be complete and is presented for reference only. You may want to consult the House of Representatives parallel table of authorities for a complete listing.]

- 27 CFR part 53
- 27 CFR part 70

Exhibit C2012

LII

legal information institute

US CODE COLLECTION

[collection home](#)

TITLE 26 > Subtitle F > CHAPTER 61 > Subchapter A > PART II > Subpart D > Sec. 6020.

Sec. 6020. - Returns prepared for or executed by Secretary

(a) Preparation of return by Secretary

If any person shall fail to make a return required by this title or by regulations prescribed thereunder, but shall consent to disclose all information necessary for the preparation thereof, then, and in that case, the Secretary may prepare such return, which, being signed by such person, may be received by the Secretary as the return of such person.

(b) Execution of return by Secretary

(1) Authority of Secretary to execute return

If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

(2) Status of returns

Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes

Exhibit D 1 of 2

Parallel authorities for 26 USC 6020 (from CFR)

[NB: because this service is automated, and the information it uses relatively volatile, this listing may not be complete and is presented for reference only. You may want to consult the House of Representatives parallel table of authorities for a complete listing.]

- 27 CFR part 53
- 27 CFR part 70

LII

legal information institute

US CODE COLLECTION

[collection home](#)

TITLE 26 > Subtitle F > CHAPTER 75 > Subchapter A > PART I > Sec. 7214.

Sec. 7214. - Offenses by officers and employees of the United States

(a) Unlawful acts of revenue officers or agents

Any officer or employee of the United States acting in connection with any revenue law of the United States -

(1)

who is guilty of any extortion or willful oppression under color of law; or

(2)

who knowingly demands other or greater sums than are authorized by law, or receives any fee, compensation, or reward, except as by law prescribed, for the performance of any duty; or

(3)

who with intent to defeat the application of any provision of this title fails to perform any of the duties of his office or employment; or

(4)

who conspires or colludes with any other person to defraud the United States; or

(5)

who knowingly makes opportunity for any person to defraud the United States; or

(6)

who does or omits to do any act with intent to enable any other person to defraud the United States; or

Exhibit E 1 of 3

(7)

who makes or signs any fraudulent entry in any book, or makes or signs any fraudulent certificate, return, or statement; or

(8)

who, having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the United States under any revenue law, fails to report, in writing, such knowledge or information to the Secretary; or

(9)

who demands, or accepts, or attempts to collect, directly or indirectly as payment or gift, or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law, except as expressly authorized by law so to do;

shall be dismissed from office or discharged from employment and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both. The court may in its discretion award out of the fine so imposed an amount, not in excess of one-half thereof, for the use of the informer, if any, who shall be ascertained by the judgment of the court. The court also shall render judgment against the said officer or employee for the amount of damages sustained in favor of the party injured, to be collected by execution.

(b) Interest of internal revenue officer or employee in tobacco or liquor production

Any internal revenue officer or employee interested, directly or indirectly, in the manufacture of tobacco, snuff, or cigarettes, or in the production, rectification, or redistillation of distilled spirits, shall be dismissed from office; and each such officer or employee so interested in any such manufacture or production, rectification, or redistillation or production of fermented liquors shall be fined not more than \$5,000.

(c)

Cross reference

For penalty on collecting or disbursing officers trading in public funds or debts of property, see 18 U.S.C. 1901

Exhibit E 2 of 3

Parallel authorities for 26 USC 7214 (from CFR)

[NB: because this service is automated, and the information it uses relatively volatile, this listing may not be complete and is presented for reference only. You may want to consult the House of Representatives parallel table of authorities for a complete listing.]

- 5 CFR part 3101
- 27 CFR part 70

Exhibit E 3 of 3

IRS Levy Form 668-B

- A. Form 668-B IRS Levy Form. Notice it is a four-part form.
 - 1. Part 1 SPF Seizure File (Special Procedures Function).
 - 2. TDA Copy (Taxpayer Delinquency Account).
 - 3. To be given to the taxpayer.
 - 4. To be given to the person in possession of taxpayer's property.
- B. If you notice in the center of Form 668-B we find the reference to 26 USC 6331.
- C. If you have been the victim of a levy you might just want to do a FOIA request for these forms.
- D. You might also want to review the May "VIP Dispatch" on Assessments and go for it.

REVISED

Form 668-B

Department of the Treasury - Internal Revenue Service

Levy

Taxpayer Name/Address

Originating Internal Revenue District (City and State)

Kind of Tax	Tax Period Ended	Date of Assessment	Taxpayer Identification Number	Unpaid Balance of Assessment	Statutory Additions	Total
				\$	\$	\$
THIS FORM IS FOR INTERNAL USE ONLY. DO NOT FILE.						
Total amount due						\$

The Internal Revenue Service (IRS) is using this levy to seize assets owned by the taxpayer named above.

Although IRS has given the required notice and demand for payment, the taxpayer named still owes the federal tax amounts shown. The Internal Revenue Code (IRC) provides a lien for the unpaid tax and statutory additions. IRC section 6331 authorizes IRS to

collect taxes by levy on all taxpayer property or rights to property, except property exempt under IRC section 6334.

Therefore, IRS levies (seizes) under IRC section 6331, as much property or rights to property, real or personal needed to pay the total amount due, with additions provided by law, including fees, costs, and expenses of this levy.

Dated at _____, 19____
(Place) (Date)

Signature of Revenue Officer	Telephone Number	Date
Signature of Group Manager		Date
Concurrence Signature of District Director or Asst. District Director if taxpayer's principal residence is to be seized, unless Collection is in jeopardy		Date

_____ was asked to be present during inventory. _____
 (Taxpayer's Name) (Revenue Officer Signature)

_____ was present at inventory. Yes No
 (Taxpayer or Taxpayer's Representative's Name)

REVISED

Form **668-B**

Department of the Treasury - Internal Revenue Service

Levy

Taxpayer Name/Address

Originating Internal Revenue District (City and State)

Kind of Tax	Tax Period Ended	Date of Assessment	Taxpayer Identification Number	Unpaid Balance of Assessment	Statutory Additions	Total
				\$	\$	\$
				Total amount due ▶ \$		

**THIS FORM IS FOR INTERNAL USE ONLY.
DO NOT FILE.**

The Internal Revenue Service (IRS) is using this levy to seize assets owned by the taxpayer named above.

collect taxes by levy on all taxpayer property or rights to property, except property exempt under IRC section 6334.

Although IRS has given the required notice and demand for payment, the taxpayer named still owes the federal tax amounts shown. The Internal Revenue Code (IRC) provides a lien for the unpaid tax and statutory additions. IRC section 6331 authorizes IRS to

Therefore, IRS levies (seizes) under IRC section 6331, as much property or rights to property, real or personal needed to the total amount due, with additions provided by law, including fees, costs, and expenses of this levy.

Dated at _____, 19____
(Place) (Date)

Signature of Revenue Officer	Telephone Number	Date
Signature of Group Manager		Date
Concurrence	Signature of District Director or Asst. District Director if taxpayer's principal residence is to be seized, unless Collection is in jeopardy	Date

_____ was asked to be present during inventory. _____
(Taxpayer's Name) (Revenue Officer Signature)

_____ was present at inventory. Yes No
(Taxpayer or Taxpayer's Representative's Name)

Part 2 - TDA Copy

Form 668-B (Rev. 1-95)

REVISED

Department of the Treasury - Internal Revenue Service

Form **668-B**

Levy

Taxpayer Name/Address

Originating Internal Revenue District (City and State)

Kind of Tax	Tax Period Ended	Date of Assessment	Taxpayer Identification Number	Unpaid Balance of Assessment	Statutory Additions	Total
				\$	\$	\$
<p>THIS FORM IS FOR INTERNAL USE ONLY. DO NOT FILE.</p>						

Total amount due ▶ \$

The Internal Revenue Service (IRS) is using this levy to seize assets owned by the taxpayer named above.

Although IRS has given the required notice and demand for payment, the taxpayer named still owes the federal tax amounts shown. The Internal Revenue Code (IRC) provides a lien for the unpaid tax and statutory additions. IRC section 6331 authorizes IRS to

collect taxes by levy on all taxpayer property or rights to property, except property exempt under IRC section 6334.

Therefore, IRS levies (seizes) under IRC section 6331, as much property or rights to property, real or personal needed to pay the total amount due, with additions provided by law, including fees, costs, and expenses of this levy.

Dated at _____, 19____
(Place) (Date)

Signature of Revenue Officer Telephone Number Date

Signature of Group Manager Date

Concurrence Signature of District Director or Asst. District Director if taxpayer's principal residence is to be seized, unless Collection is in jeopardy Date

_____ was asked to be present during inventory. _____
(Taxpayer's Name) (Revenue Officer Signature)

_____ was present at inventory. Yes No
(Taxpayer or Taxpayer's Representative's Name)

Part 3 - To be given to the Taxpayer

Form 668-B (Rev. 1-95)

REVISED

Department of the Treasury - Internal Revenue Service

Form **668-B**

Levy

Taxpayer Name/Address	Originating Internal Revenue District (City and State)
-----------------------	--

Kind of Tax	Tax Period Ended	Date of Assessment	Taxpayer Identification Number	Unpaid Balance of Assessment	Statutory Additions	Total
-------------	------------------	--------------------	--------------------------------	------------------------------	---------------------	-------

				\$	\$	\$
--	--	--	--	----	----	----

**THIS FORM IS FOR INTERNAL USE ONLY.
DO NOT FILE.**

	Total amount due ▶ \$
--	------------------------------

The Internal Revenue Service (IRS) is using this levy to seize assets owned by the taxpayer named above.

Although IRS has given the required notice and demand for payment, the taxpayer named still owes the federal tax amounts shown. The Internal Revenue Code (IRC) provides a lien for the unpaid tax and statutory additions. IRC section 6331 authorizes IRS to

collect taxes by levy on all taxpayer property or rights to property, except property exempt under IRC section 6334.

Therefore, IRS levies (seizes) under IRC section 6331, as much property or rights to property, real or personal needed to pay the total amount due, with additions provided by law, including fees, costs, and expenses of this levy.

Dated at _____, 19____
(Place) (Date)

Signature of Revenue Officer	Telephone Number	Date
------------------------------	------------------	------

Signature of Group Manager	Date
----------------------------	------

Concurrence <small>Signature of District Director or Asst. District Director if taxpayer's principal residence is to be seized, unless Collection is in jeopardy</small>	Date
---	------

_____ was asked to be present during inventory.
(Taxpayer's Name) (Revenue Officer Signature)

_____ was present at inventory. Yes No
(Taxpayer or Taxpayer's Representative's Name)

Part 4 - To be given to the person in possession of taxpayer's property

Form 668-B (Rev 1-95)

IRS Levy Form 668-C

A. IRS Form 668-C, Final Demand for Payment, is a two-part form with an attachment page. (Sec. 6332 Surrender of Property Subject to Levy).

1. What property do you have that is subject to surrender?
2. Go to the attachment page and read paragraph (f) Person Defined and read it again; then go back and read IRC title 26 section 3401, or do you need more clues?

Form **668-C**
(Rev. 04-96)

Department of the Treasury - Internal Revenue Service

Final Demand for Payment

To _____

Date _____

District _____

On _____, 19____, a notice of levy was served on

_____ at _____. The notice

of levy attached property, rights to property, money, credits, and bank deposits then in your possession, to the credit of, belonging

to, or owned by _____

THIS FORM IS FOR INTERNAL USE ONLY.

When the notice was served, that person owed and still owes the United States \$_____. Demand was made

DO NOT FILE.

you for the amount shown in the notice of levy, or for any smaller amount you owed the taxpayer, but we have not received your

payment.

Please see section 6332 of the Internal Revenue Code on the back of this form.

Demand is again made for \$ _____, shown in the notice of levy,

or for any smaller amount you owed the taxpayer when the notice of levy was served. Send us payment as explained in the

instructions on the levy within 5 days of getting this demand. If you don't pay within 5 days, we will consider you to have refused

our demand and we may then enforce Code Section 6332.

If someone other than the taxpayer has a claim against this property, please complete the back of this form.

Signature _____

Address (City and State) _____

Title _____

Telephone Number _____

Certification of Service

I certify that this Final Demand was served by handing a copy to:

Name _____

Title _____

Place _____

Date _____

Time _____

Signature of revenue officer _____

Date _____

Part 1 - TDA File

Form 668-C (Rev. 04-96)

Form **668-C**
(Rev. 04-96)

Department of the Treasury - Internal Revenue Service
Final Demand for Payment

To _____	Date _____
	District _____

On _____, 19____, a notice of levy was served on _____ at _____. The notice of levy attached property, rights to property, money, credits, and bank deposits then in your possession, to the credit of, belonging to, or owned by _____

o _____ (Identification Number) **THIS FORM IS FOR INTERNAL USE ONLY.**
When the notice was served, that person owed and still owes the United States \$_____. Demand was made on you for the amount shown in the notice of levy, or for any smaller amount you owed the taxpayer, but we have not received your payment.

Please see section 6332 of the Internal Revenue Code on the back of this form.

Demand is again made for \$ _____, shown in the notice of levy, or for any smaller amount you owed the taxpayer when the notice of levy was served. Send us payment as explained in the instructions on the levy within 5 days of getting this demand. If you don't pay within 5 days, we will consider you to have refused our demand and we may then enforce Code Section 6332.

If someone other than the taxpayer has a claim against this property, please complete the back of this form.

Signature _____		Address (City and State) _____
Title _____	Telephone Number _____	

Part 2 - Third Party

Form 668-C (Rev. 04-96)

Sec. 6332. Surrender of Property Subject to Levy

(a) **Requirement.** - Except as otherwise provided in this section, any person in possession of (*or obligated with respect to*) property or rights to property subject to levy upon which a levy has been made shall, upon demand of the Secretary, surrender such property or rights (*or discharge such obligation*) to the Secretary, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.

(b) **Special Rule For Life Insurance and Endowment Contracts.** -
[Omitted.]

(c) **Special Rule For Banks.** - Any bank (*as defined in section 408(n)*) shall surrender (*subject to an attachment or execution under judicial process*) any deposits (*including interest thereon*) in such bank only after 21 days after service of levy.

(d) **Enforcement of Levy.** -

(1) **Extent of Personal Liability.** - Any person who fails or refuses to surrender any property or rights to property, subject to levy, upon demand by the Secretary, shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made, together with costs and interest on such sum at the underpayment rate established under section 6621 from the date of such levy (*or in the case of a levy described in section 6631 (d)(3), from the date such person would otherwise have been obligated to pay over such amounts to the taxpayer*). Any amount (*other than costs*) recovered under this paragraph shall be credited against the tax liability for the collection of which such levy was made.

THIS FORM IS FOR INTERNAL USE ONLY.

(2) **Penalty for Non-Compliance.** - In addition to the personal liability imposed by paragraph (1), if any person required to surrender property or rights to property fails or refuses to surrender such property or rights to property without reasonable cause, such person shall be liable for a penalty equal to 50 percent of the amount recoverable under paragraph (1). No part of such penalty shall be credited against the tax liability for the collection of which such levy was made.

(e) **Effect of Honoring Levy.** - Any person in possession of (*or obligated with respect to*) property or rights to property subject to levy upon which a levy has been made who, upon demand by the Secretary, surrenders such property or rights to property (*or discharges such obligations*) to the Secretary (*or who pays a liability under subsection (d)(1)*) shall be discharged from any obligation or liability to the delinquent taxpayer and any other person with respect to such property or rights to property arising from such surrender or payment.

(f) **Person Defined.** - The term "person," as used in subsection (a), includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to surrender the property or rights to property, or to discharge the obligation.

Other Claims

If someone other than the taxpayer has asserted a claim(s) to the property, rights to property, money, credits, and bank deposits in your possession, please furnish the following information:

Name, address and telephone
number of the claimant

Amount
claimed

Date of
claim

Type of
claim

IRS Release of Levy

- A. IRS release of Levy/ Release of Property from Levy (Exhibit A). This is a three part form. We only included part 2-For Taxpayer.
 - 1. You can look up for yourself the various code sections listed on this 668-D form.
 - 2. Those of you with a levy problem most likely hope to receive one of these from the IRS.

- B. Exhibit A, page 2 of 2, shows an actual release of a levy that was sent out by the IRS for a young lady in Cincinnati, Ohio.

- C. It is possible to get one of these “Release from Levy Forms.”
 - 1. Our experience teaches us it is much easier to stop a levy from being issued in the first place
 - 2. If you are the victim of a Levy, the quicker you start the release procedures the better chance you have.
 - 3. The longer it is in place, the harder it is to get it released.

- D. Do not expect the IRS to follow their own laws when it comes to placing a levy against someone, and that is your chance to get the levy released.

Release of Levy/Release of Property from Levy

To _____

Taxpayer(s) _____

Identifying Number(s) _____

A notice of levy was served on you and demand was made for the surrender of:

all property, rights to property, money, credits and bank deposits of the taxpayer(s) named above, except as provided in 6332(c) of the Internal Revenue Code - "Special Rule For Banks." See the back of this form regarding this exception.

wages, salary and other income, now owed to or becoming payable to the taxpayer(s) named above.

THIS FORM IS FOR INTERNAL USE ONLY.
DO NOT FILE.

The box checked below applies to the levy we served on you.

Release of Levy

Under the provisions of Internal Revenue Code section 6343, all property, rights to property, money, credits, and bank deposits of the taxpayer(s) named above are released from the levy.

Under the provisions of Internal Revenue Code section 6343, all wages, salary and other income now owed to or becoming payable to the taxpayer(s) named above are released from the levy.

Release of Property from Levy

Under the provisions of Internal Revenue Code section 6343, all property, rights to property, money, credits, and bank deposits greater than \$ _____ are released from the levy. The levy now attaches only to this amount.

The last payment we received from you was \$ _____ dated _____. The amount the taxpayer still owes \$ _____. When this amount is paid to the Internal Revenue Service, the levy is released. If you sent us a is payment after the last payment date shown, subtract that from the amount you send now.

Under the provisions of Internal Revenue code section 6343, all wages, salary and other income greater than less than \$ _____ each _____ now owed to or becoming payable to the taxpayer(s) named above are released from the levy.

Dated at _____ (Place) _____ (Date) 19 _____

Signature _____ Telephone Number _____ Title _____

Exhibit A 1 of 2

Department of the Treasury
Internal Revenue Service
P.O. BOX 145566
CINCINNATI, OHIO 45214

Date:
APR. 27, 2000

Taxpayer Identifying Number:
C 01

Contact Telephone Number:
TOLL FREE: 1-800-829-7650
MON. THRU FRI. 8:00AM TO 8:00PM

DEST

Re:

CINCINNATI OH

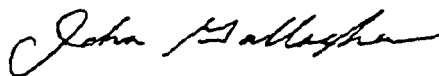
4520

We Released The Taxpayer Levy

We mailed you a NOTICE OF LEVY requiring that you turn over property belonging to the taxpayer named above as payment of taxes owed.

We have now RELEASED FROM LEVY all property or rights to property belonging to the above taxpayer. You are no longer required to turn over under this levy any money, property, or rights to property belonging to the taxpayer.

Thank you for your cooperation.



Chief, Automated Collection Branch

Exhibit A 2 of 2

IRS Form 668-E, Release of Levy

- A. IRS form 668-E (Exhibit A, page 1 of 2) is a two part form where part 1 goes to the IRS and part 2 is for the taxpayer or owner of property.
1. Go to Exhibit A, page 2 of 2, which is the back page of this form; Receipt for Property returned under Release of Levy.
 2. Just read the first paragraph of Exhibit A, page 2 of 2. How do you like that statement? Of course guess who wrote it? Now why don't they want to fill out or sign our forms?
- B. Go ahead read Exhibit A, page 2 of 2, then look up the corresponding statutes with the CFR parallel authorities that go with those statutes. What did you find out?

Form **668-E**
(Rev. July 1989)

Department of the Treasury - Internal Revenue Service
Release of Levy

Account of _____

**THIS FORM IS FOR INTERNAL USE ONLY.
DO NOT FILE.**

On the _____ day of _____, 19 _____, certain property or rights to property belonging to the above-named taxpayer were levied upon under a levy dated _____, 19 _____.

Under the provisions of section 6343, Internal Revenue Code, the following property or rights to property are released from the levy when the recipient signs the receipt on the back of this form:

Dated at _____ this _____ day of _____, 19 _____.

Signature _____	Title _____	Telephone number _____
-----------------	-------------	------------------------

Part 2 - For taxpayer or owner of property

Form 668-E (Rev. 7-89)

JSA
9W8C89 1 000

Exhibit A 1 of 2

Receipt for Property returned under Release of Levy

I acknowledge receipt of the property or rights to property listed and described on the front of this form, and I accept the property as being in the same condition as when seized. Further, I waive all claims against the United States for any damages or expenses incurred in connection with this seizure.

Dated at _____ this _____ day of _____, 19 _____.

Signature of recipient _____

In the presence of:

Name (Signature) _____

Address _____

**THIS FORM IS FOR INTERNAL USE ONLY.
DO NOT FILE.**

Name (Signature) _____

Address _____

Internal Revenue Code

Sec. 6343. Authority to Release Levy and Return Property.

(a) Release of Levy and Notice of Release.-

(1) **In general.-** Under regulations prescribed by the Secretary, the Secretary shall release the levy upon all, or part of, the property or rights to property levied upon and shall promptly notify the person upon whom such levy was made (if any) that such levy has been released if-

(A) the liability for which such levy was made is satisfied or becomes unenforceable by reason of lapse of time,

(B) release of such levy will facilitate the collection of such liability,

(C) the taxpayer has entered into an agreement under section 6159 to satisfy such liability by means of installment payments, unless such agreement provides otherwise,

(D) the Secretary has determined that such levy is creating an economic hardship due to the financial condition of the taxpayer, or

(E) the fair market value of the property exceeds such liability and release of the levy on a part of such property could be made without hindering the collection of such liability.

For purposes of subparagraph (C), the Secretary is not required to release such levy if such release would jeopardize the secured creditor

status of the Secretary.

(2) **Expedited determination on certain business property.-** In the case of any tangible personal property essential in carrying on the trade or business of the taxpayer, the Secretary shall provide for an expedited determination under paragraph (1) if levy on such tangible personal property would prevent the taxpayer from carrying on such trade or business.

(3) **Subsequent levy.-** The release of levy on any property under paragraph (1) shall not prevent any subsequent levy on such property.

Sec. 6502. Collection after assessment.

(a) **Length of period.-** Where the assessment of any tax imposed by this title has been made within the period of limitation properly applicable thereto, such tax may be collected by levy or by a proceeding in court, but only if the levy is made or the proceeding begun-

(1) within 6 years after the assessment of the tax, or

(2) prior to the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer before the expiration of such 6-year period (or, if there is a release of levy under section 6343 after such 6-year period, then before such release).

(b) **Date when Levy is considered made.-** The date on which a levy on property or rights to property is made shall be the date on which the notice of seizure provided in section 6335(a) is given.

FOIA Request pertaining to a Levy

- A. Just as we have been teaching in the other “VIP Dispatches”, FOIA, FOIA, FOIA, to prove their guilt and your innocence.
- B. If you have been following along with the “VIP Dispatch” and going through the various FOIA requests like the Assessment issues, you have seen that if there is no valid assessment, there can be no levy. Sometimes however, it can be hard to get the IRS to understand why they should release a levy.
- C. The simplest way to get that levy released is to prove that the IRS failed to follow due process. But this proof must be made a part of your administrative record.
- D. The harder way is having to go after whoever is responsible for that Notice of Levy.
- E. Using a step by step process, sometimes it is easier to knock out the penalties and interest then the actual amount.
- F. If you go through the IRS form 8278 and look at the code sections, then go to the corresponding Parallel Table of Authorities in the CFR’s and find out just what activity they pertain to in your case.
- G. On the next page, you see a FOIA request for IRS form 8278. At paragraph A, you will find what Agents must perform procedurally to place penalties against an entity.

FOIA request for Form 8278
Computation and Assessments of Miscellaneous Penalties

Penalty Assessment

- A. The assessment of information return penalties is done in conjunction with the key case with any time spent on the issue charged to the key case. A penalty file is to be prepared as follows and closed along with the key case to ESP for assessment:
1. Complete Form 3198 and attach to the outside of the file.
 2. Complete Form 4318A explaining the issues and attach any workpapers used in working the issue. In addition, the case should be written up in IFRAC form.
 3. Complete Form 8278 according to the instructions on the back of the form and place on top of the Form 4318A.
 4. In an agreed case, the taxpayer signs Form 870. Place this on top of the Form 8278 in the file.
 5. If the taxpayer does not agree to the assessment of the penalties, note on the Form 3198 the case is unagreed and the taxpayer wishes to appeal the assessment.
- B. This form 8278 is a supporting document that is required to be filled out if you are assessed Miscellaneous Penalties.
- C. If you have a TC-290 posted to your IMF or BMF you might want to send in this request.
- D. If you receive any paperwork from the IRS that shows Miscellaneous Penalties you might also want to send off for this form.

FREEDOM OF INFORMATION ACT REQUEST

TO:
Disclosure Officer
Internal Revenue Service
iraddr1
iraddr2

FROM: (your name or entity name)
addr1
addr2

Account #

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).
2. If some of this request is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. This request pertains to the years:
4. BACKGROUND: See Exhibit A, 1 of 1, Form 8278.
5. Please send a certified copy or copies of Form 8278, "Computation and Assessment of Miscellaneous Penalties", which is specific to above referenced SS# or EIN# and no other and which indicates the alleged liability.
6. Assessment certificates or supporting documents are being requested per 26 USC 6203 and 26 CFR 301.6203-1.
7. Please certify all documents with the Form 2866, certificate of official record. If there are no specific documents pertaining to this request, certify your response with Form 3050, certificate of lack of records.

DATED:

Respectfully,

name, Qualified Requester

Computation and Assessment of Miscellaneous Penalties

COMPLETE BOXES 6 (if applicable) and 11 IN RED INK

1. Taxpayer's Name: Last, First, Middle Initial (single name only)		5. Year (mandatory) (yy/mm)	6. Statute Date (optional) (mm/dd/yy)
2. Address		7. (a) SSN: 	(Complete for (a) or (b), not both. See instructions)
		(b) EIN: 	
3. MFT (check one) <input type="checkbox"/> IMF 55 <input type="checkbox"/> BMF 13	4. NO STATUTE <input type="checkbox"/> (complete #5)	8. Function (check one) <input type="checkbox"/> Examination <input type="checkbox"/> Collection <input type="checkbox"/> EP/EO <input type="checkbox"/> Appeals	

9. PENALTY DESCRIPTION	(a) Code Section	(b) Reference Number	(c) Number of Violations	(d) Amount Assessed	(e) Amount Abated
Information Returns (Due date after 12/31/89)					
Failure to file information returns	6721	600			
Failure to provide payee statement	6722	612			
Failure to furnish TIN	6723	621			
Failure to provide notice of partnership exchange	6723	674			
Failure to file IRA report	6693	620			
<small>Note: For Information Returns due before 1/1/90, see IRM Exhibit (20)100-7</small>					
Excise					
Refusal to enter or inspect	4083(c) (3)	655			
Dyed fuel sold or used in taxable use	6715	656			
Failure to properly label retained diesel fuel	4082(c)	657			
THIS FORM IS FOR INTERNAL USE ONLY. DO NOT FILE.					
Form 8300 (Due date after 12/31/89)					
Failure to file return					
Failure to file return - intentional disregard	6721	652			
Failure to provide payee statement	6722	653			
Failure to provide payee statement - intentional disregard	6722	654			
International Information Returns					
Failure to file Form 5471 and Sch O	6679/6046	613			
Failure to file Form 5471 and Sch N	6679/6035	614			
Failure to file such form as required	6679/6046A	619			
Failure to file Form 5471 and Sch M	6038(b)	623			
Failure to file Form 5472 / maintain records	6038A(d)	625			
Failure to file Form 926	6038B(b)	676			
Failure to file Form 3520/3520A	6677	677			

10. Originator	11. Date	12. Group Number	13. Phone
14. Terminal Operator	15. Date	16. Reviewer	17. Date

Computation and Assessment of Miscellaneous Penalties

1. Taxpayer's Name: Last, First, Middle Initial (single name only) 5. Year (mandatory) (yy/mm) 6. Statute Date (optional) (mm/dd/yy)

2. Address 7. (a) SSN:
(b) EIN: **(Complete for (a) or (b), not both. See instructions)**

3. MFT (check one) IMF 55 BMF 13 (complete #5) 4. NO STATUTE (complete #5) 8. Function (check one) Examination Collection EP/EO Appeals

9. PENALTY DESCRIPTION	(a) Code Section	(b) Reference Number	(c) Number of Violations	(d) Amount Assessed	(e) Amount Abated
False Withholding Statement					
False information of Form W-9	6682	615			
False information on Form W-4	6682	616			
Preparer Penalties (See instructions.)					
Understatement due to unrealistic positions (Returns due after 12/31/89)	6694(a)	645			
Willful or reckless conduct (Returns due after 12/31/89)	6694(b)	650			
Return preparer disclosure or use of information	6713	633			
Return preparer disclosure or use of information	7216	635			
Information requirement	6695(a)-(e)	624			
Check negotiation	6695(f)	626			
Aiding and abetting - preparer	6701	631			
THIS FORM IS FOR INTERNAL USE ONLY. DO NOT FILE.					
Tax Shelters					
Promoting an abusive tax shelter					
Aiding and abetting - promoter	6701	630			
Aiding and abetting - preparer	6701	631			
Failure by broker to notify payor	6705	632			
Failure to furnish information on tax shelters	6707	634			
Failure to maintain a list of investors	6708	636			
Other					
Frivolous tax return	6702	665			
Failure to file Form 8820	6652/6043	649			
Sanctions and costs awarded by Tax Court	6673(a)	643			
Sanctions and costs awarded by other courts	6673(b)	644			

10. Originator	11. Date	12. Group Number	13. Phone
14. Terminal Operator	15. Date	16. Reviewer	17. Date

FOIA Request for 668-B and 668-C

- A. We are inserting the next three FOIA requests for you to use only if you have received paperwork from the IRS telling you that they are about to levy you or if they already have.
 - 1. If you are not in that situation then do not send them in.
- B. Make sure you include the Exhibit item with the FOIA request when you send it in.
- C. If you look at each of the three forms, at the bottom left side it tells you what that form is for.
- D. 668-B, part 1 SPF Seizure file is the first form
 - 1. So there is a seizure file and this 668-B Part 1 would be put into that file.
 - 2. Where is this seizure file?
- E. 668-B, part 2-TDA copy is the second form.
 - 1. So now we know a copy is to be put in your taxpayer delinquent account.
 - 2. Find out if they performed that function or not.
- F. 668-C Final Demands for Payment, part 1-TDA file.
 - 1. Did you receive a copy of this form?
 - 2. Was a copy put into your TDA file?
- G. Why are these important?
 - 1. One brick does not build a house but when you collect a number of bricks, then you can construct something.
 - 2. When you can prove that they failed to follow this, that and this, then you can build a strong document.

FREEDOM OF INFORMATION ACT REQUEST

TO:
Disclosure Officer
Internal Revenue Service
iraddr1
iraddr2

FROM: (your name or entity name)
addr1
addr2

Account # (SS# or EIN#)

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).
2. If some of this request is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. This request pertains to the years:
4. BACKGROUND: See Exhibit A, Copy of Form 668-B part 1, SPF Seizure File
5. Please send me a copy of the Form 668-B part 1, SPF Seizure File, which pertains to the above referenced SS# or EIN#.
6. Please certify all documents with the Form 2866, certificate of official record. If there are no specific documents pertaining to this request, certify your response with Form 3050, certificate of lack of records.

Dated:

Respectfully,

name, Qualified Requester

REVISED

Form 668-B

Department of the Treasury - Internal Revenue Service
Levy

Taxpayer Name/Address

Originating Internal Revenue District (City and State)

Kind of Tax	Tax Period Ended	Date of Assessment	Taxpayer Identification Number	Unpaid Balance of Assessment	Statutory Additions	Total
				\$	\$	\$
THIS FORM IS FOR INTERNAL USE ONLY. DO NOT FILE.						
				Total amount due		\$

The Internal Revenue Service (IRS) is using this levy to seize assets owned by the taxpayer named above.

Although IRS has given the required notice and demand for payment, the taxpayer named still owes the federal tax amounts shown. The Internal Revenue Code (IRC) provides a lien for the unpaid tax and statutory additions. IRC section 6331 authorizes IRS to

collect taxes by levy on all taxpayer property or rights to property, except property exempt under IRC section 6334.

Therefore, IRS levies (seizes) under IRC section 6331, as much property or rights to property, real or personal needed to pay the total amount due, with additions provided by law, including fees, costs, and expenses of this levy.

Dated at _____, 19____
(Place) (Date)

Signature of Revenue Officer _____ Telephone Number _____ Date _____

Signature of Group Manager _____ Date _____

Concurrence Signature of District Director or Asst. District Director if taxpayer's principal residence is to be seized, unless Collection is in jeopardy _____ Date _____

_____ was asked to be present during inventory. _____
(Taxpayer's Name) (Revenue Officer Signature)

_____ was present at inventory. Yes No
(Taxpayer or Taxpayer's Representative's Name)

Exhibit A

Form 668-B (Rev. 1-95)

FREEDOM OF INFORMATION ACT REQUEST

TO:
Disclosure Officer
Internal Revenue Service
iraddr1
iraddr2

FROM: (your name or entity name)
addr1
addr2

Account # (SS# or EIN#)

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).
2. If some of this request is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. This request pertains to the years:
4. BACKGROUND: See Exhibit A, Copy of Form 668-B part 2, TDA Copy
5. Please send me a copy of the Form 668-B part 2, TDA Copy, which pertains to the above referenced SS# or EIN#.
6. Please certify all documents with the Form 2866, certificate of official record. If there are no specific documents pertaining to this request, certify your response with Form 3050, certificate of lack of records.

Dated:

Respectfully,

name, Qualified Requester

REVISED

Form 668-B

Department of the Treasury - Internal Revenue Service

Levy

Taxpayer Name/Address

Originating Internal Revenue District (City and State)

Kind of Tax	Tax Period Ended	Date of Assessment	Taxpayer Identification Number	Unpaid Balance of Assessment	Statutory Additions	Total
				\$	\$	\$
THIS FORM IS FOR INTERNAL USE ONLY. DO NOT FILE.						
				Total amount due		\$

The Internal Revenue Service (IRS) is using this levy to seize assets owned by the taxpayer named above.

Although IRS has given the required notice and demand for payment, the taxpayer named still owes the federal tax amounts shown. The Internal Revenue Code (IRC) provides a lien for the unpaid tax and statutory additions. IRC section 6331 authorizes IRS to

collect taxes by levy on all taxpayer property or rights to property, except property exempt under IRC section 6334.

Therefore, IRS levies (seizes) under IRC section 6331, as much property or rights to property, real or personal needed to the total amount due, with additions provided by law, including fees, costs, and expenses of this levy.

Dated at _____, 19____
(Place) (Date)

Signature of Revenue Officer Telephone Number Date

Signature of Group Manager Date

Concurrence Signature of District Director or Asst. District Director if taxpayer's principal residence is to be seized, unless Collection is in jeopardy Date

_____ was asked to be present during inventory. _____
(Taxpayer's Name) (Revenue Officer Signature)

_____ was present at inventory. Yes No
(Taxpayer or Taxpayer's Representative's Name)

Part 2 - TDA Copy

Form 668-B (Rev 1-95)

Exhibit A

FREEDOM OF INFORMATION ACT REQUEST

TO:
Disclosure Officer
Internal Revenue Service
iraddr1
iraddr2

FROM: (your name or entity name)
addr1
addr2

Account # (SS# or EIN#)

Dear Disclosure Officer:

1. This is a request under the Freedom of Information Act, 5 USC 552, or regulations thereunder. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702 (f).
2. If some of this request is exempt from release, please furnish me with those portions reasonable segregable. I am waiving personal inspection of the requested records.
3. This request pertains to the years:
4. BACKGROUND: See Exhibit A, Copy of Form 668-C part 1, TDA File
5. Please send me a copy of the Form 668-C part 1, TDA File, which pertains to the above referenced SS# or EIN#.
6. Please certify all documents with the Form 2866, certificate of official record. If there are no specific documents pertaining to this request, certify your response with Form 3050, certificate of lack of records.

Dated:

Respectfully,

name, Qualified Requester

Form **668-C**
(Rev. 04-96)

Department of the Treasury - Internal Revenue Service

Final Demand for Payment

To _____	Date _____
	District _____

On _____, 19____, a notice of levy was served on _____ at _____ . The notice of levy attached property, rights to property, money, credits, and bank deposits then in your possession, to the credit of, belonging to, or owned by _____

**THIS FORM IS FOR INTERNAL USE ONLY.
DO NOT FILE.**

When the notice was served, that person owed and still owes the United States _____ . Demand was made you for the amount shown in the notice of levy, or for any smaller amount you owed the taxpayer, but we have not received your payment.

Please see section 6332 of the Internal Revenue Code on the back of this form.

Demand is again made for \$ _____ , shown in the notice of levy, or for any smaller amount you owed the taxpayer when the notice of levy was served. Send us payment as explained in the instructions on the levy within 5 days of getting this demand. If you don't pay within 5 days, we will consider you to have refused our demand and we may then enforce Code Section 6332.

If someone other than the taxpayer has a claim against this property, please complete the back of this form.

Signature _____		Address (City and State) _____	
Title _____	Telephone Number _____		

Certification of Service

I certify that this Final Demand was served by handing a copy to:

Name _____		Title _____	
Place _____		Date _____	Time _____
Signature of revenue officer _____			Date _____

Part 1 - TDA File

Form 668-C (Rev. 04-96)

Exhibit A

Conclusion: Committee on Finance

- A. The Tax Reform Restructuring Act of 1998 was passed with near unanimous support from the Congress.
1. Why? Because the IRS was getting totally out of control with their ‘Jack Book Tactics’.
 2. Some of what TRRA of 1998 was supposed to do was:
 - a. Criminalize extortion tactics by any IRS agents who abuse their authority by maliciously and willfully disregarding the legal procedures established for collection of a tax.
 - b. More IRS agents personally accountable and liable for their actions.
 - c. Protect the privacy of taxpayers.
 - d. Limit the IRS’s audit authority.
 - e. Extend the time period to pay a tax without penalty.
 - f. Preserve the integrity of judicial decisions against the IRS.
 - g. Limit the IRS’s seizure and levy authority.
 - h. Limit the IRS’s authority to accrue interest to a tax owed.
 - i. Equalize the interest charged by the IRS so that it is the same as the interest rate charged against the IRS in cases of IRS error or delay.
 - j. Provide fairness for mathematical and clerical errors or typos.
- B. Committee Hearings revealed that “some rogue members of the organization responsible for enforcement of the tax code have a record of seeking to intimidate and frighten honest, hard working taxpayers.”
- C. Now read, “Committee on Finance” (enclosed) by Senator William V. Roth, January 3, 2000, which is quite revealing itself about IRS abuses.
- D. By using the FOIA process, you can document IRS abuses against you by using their own material against them. And that is why they go to any lengths to keep us from having that information.

- E. Exposing this grave abuse of IRS procedure to the general public will hopefully keep the IRS under control. But don't hold your breath, as this battle is fought on a one-on-one, case-by-case basis.
 - 1. That does not mean that we cannot help each other though.
- F. If you haven't started a VIP study group or are not involved in one, you might just want to work toward that goal.
 - 1. Just watch out for those "idiot legal arguments" creeping in where they don't belong.



Committee On Finance

William V. Roth, Jr., Chairman

NEWS RELEASE

www.senate.gov/~finance

FOR IMMEDIATE RELEASE Press Release #106-276

January 3, 2000

ROTH STATEMENT ON GAO REPORT:

IRS SEIZURES

WASHINGTON -- Senate Finance Committee Chairman William V. Roth, Jr. (R-DE) today released the following statement on the General Accounting Office's report on IRS seizures. The report was requested by the Finance Committee as part of the Committee's oversight of the implementation of the Internal Revenue Reform and Restructuring Act of 1998.

"It has been over a year since Congress, with near unanimous support, passed the Internal Revenue Reform and Restructuring Act of 1998. Oversight hearings conducted by the Senate Finance Committee, which included testimony from taxpayers, agency employees, and practitioners, as well as reports from the General Accounting Office and the IRS itself, demonstrated that change was needed within the powerful agency that for too many years had largely gone unmonitored by Capitol Hill.

"Witnesses and documentary evidence showed how agency employees were pushed through the use of goals, quotas, and statistics to conduct and even inflate audits and to execute liens, levies, and seizures against taxpayers in collection processes that many times were carried out incorrectly and without adequate oversight.

"The hearings made it clear that a reform effort was needed -- one that balanced the responsibility of the IRS to collect and protect the federal revenue with the rights of taxpayers and agency employees to be free from heavy-handed and abusive practices that had become all too familiar.

"The IRS Reform and Restructuring Act opened a new era. Important changes would be made within the agency. A new Commissioner, Charles O. Rossotti, was appointed, promising that the law would be implemented as Congress intended. The IRS would still have the authority and tools necessary to perform its duties, but taxpayers would have common-sense protections like due process in the collections process, and be free from being targets of an agency driven by goals, quotas, and statistics.

"Commissioner Rossotti and I both warned that real change within the agency would not be immediate. Almost half a century of institutionalized behavior was being modified, and Congressional efforts -- as well as Commissioner Rossotti's best managerial directives -- would be met by resistance in certain quarters. But as Chairman of the Senate Finance Committee, I promised to continue Congressional oversight to assure that the new law was carried out as Congress intended.

"The GAO report being released today is an important step in that oversight effort. It shows where we

are in the reform effort, demonstrating that while important changes seem to be taking effect, much remains to be done. For example, the GAO concludes that the IRS's use of seizure authority continues to produce mixed results in terms of targeting the most noncompliant taxpayers, is questionable in some cases, and is difficult to appropriately monitor because of woefully inadequate documentation.

"Among other things, the GAO concludes that while seizures are generally targeted to more noncompliant taxpayers, they are not conducted on a uniform basis. For example, taxpayers in Boston are 17 times more likely to have their property seized by the IRS than taxpayers in San Jose. For business taxpayers, the GAO found that the likelihood of seizure may be 14 times greater in one district than in another.

"The report also confirms pre-Restructuring Act examples of disproportionate seizures, the IRS's unwillingness to work with taxpayers, superficial investigation work, little advance warning provided to taxpayers, seizure of everything owned by the taxpayer, IRS sale of assets with uncertain value, and assets that are questionably sold by the officers who seize them.

"The taxpayer protections established by the Restructuring Act and the GAO's recommendations should help remedy these concerns, just as they should also help remedy weaknesses that the GAO found in a number of instances where the IRS did not follow basic notification requirements or the revenue officer's files did not document adherence to basic taxpayer protection requirements.

"Once assets were seized, the GAO found many weaknesses in how the IRS controlled the assets. The process did not provide IRS management with adequate information to oversee the process. In addition, there was little assurance that seized assets were marketed and sold for the maximum price possible. GAO found that a little more than half (51%) of the sales of seized assets were not competitive because there was only one bidder, and only 42% of sales were for more than the minimum bid price. The report includes egregious examples of seized property being sold for ridiculous prices with little benefit to the IRS or to the taxpayer.

"While the GAO report confirms many of the weaknesses documented during Congressional hearings and demonstrates how some persist despite the new law, I remain optimistic that positive change is taking hold within the agency. Commissioner Rossotti suggested that reform would take the better part of ten years.

"The report notes that the IRS seizure program is 'in a period of transition while it adapts to Restructuring Act requirements for providing greater taxpayer protections.' I anticipate, as the GAO suggests, that a rebound seems consistent with its analysis. Our reform efforts will continue to take root."

