

* LIEN *

What are the procedural steps in the IRS' Lien process?



The many entities that the IRS uses to spread the misconception that their Lien process is valid.

How does the IRS violate these steps?

What does the IRS' lien power pertain to?

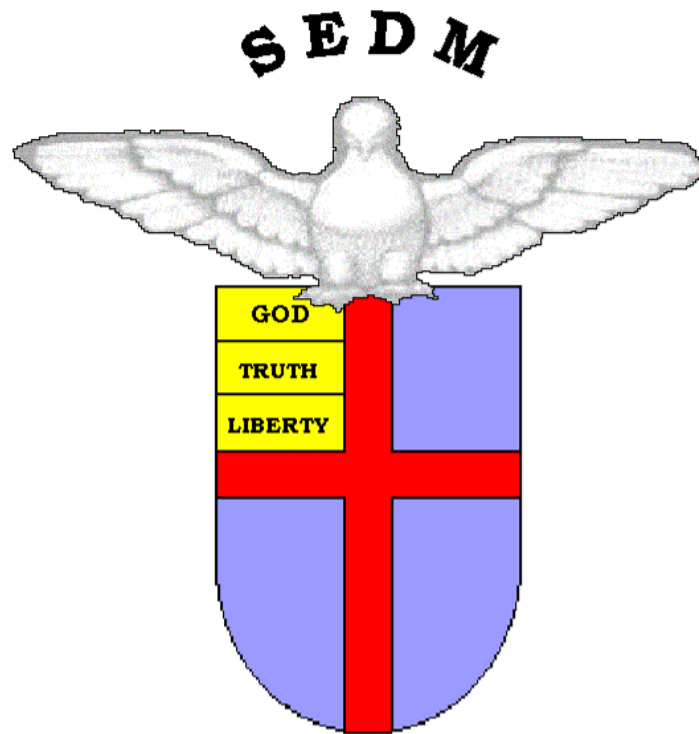
What happens if you don't request a Due-Process Hearing?

Volume 7, July 2002

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NEW YORK 2022

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Introduction to the IRS Lien Process

Millions of Americans are suffering under and trying to survive with one or more IRS liens placed against them. These same Americans have had their credit ruined and are unable to borrow money to buy a car or get a loan for a house. For the last two years 1999 and 2001, the IRS has slowed down their collection efforts due to the 1998 Tax Reform and Restructuring Act. Now here in July 2002 we are finding the old IRS back to its same old tricks again. They are again relying upon the court system to protect their actions no matter how irrational they are.

Now what about that nasty lien? Indeed we have seen a number of people going around the country telling people that they hold the key to getting that lien released. We have read a lot of hype paperwork and most of it is all air. We have seen a lot of paperwork that contains a lot of nice sounding allegations and to the novice it will be the best paper work they have ever seen. The trouble being that most of these people have never been exposed to any real detailed paperwork and do not comprehend just how the administrative equity system actually is supposed to work. We know that a lot of this type of paper work sounds almost too good to be true. But, that's when you must shake your head and start looking for substantiation in the paper work instead of the cute allegations. What facts does the paperwork rely upon? If there are any exhibits how are they specific to you? Is there a lot of mumbo jumbo "case law" in the paperwork?

Next, there are those out there who want you to file suit or place a commercial lien against the county recorder or some IRS agent or judge. If you do that then you are climbing out of the frying pan into the fire. What about all those promoting the fraud

argument? Fraud must be specifically pleaded. The general pleading of the legal conclusion of “fraud” is not sufficient. The fact constituting the fraud must be proven.

Every element of the cause of action for fraud must be alleged factually and specifically. The essential allegations of an action for fraud are false representations^{as} to a material fact, knowledge of its falsity, intent to defraud, and justifiable reliance resulting in damage. Does that paperwork about fraud meet those criteria?

One of the items we want to lightly cover in this issue are Collection Due Process hearings. We will cover this important subject in more detail in our next issue.

We want to not only teach you and help you create the most effective paperwork, but give you the background information related to that paperwork. We hope you find this issue informative and useful.

Results of Hard work

- A. Is it actually possible to remove a lien?
- B. We have been successful in a few cases but some of these are real tough.
- C. We like to help someone stop a lien or levy before it is placed against them.
- D. The next five pages are the result of a lot of hard work.
 - 1. We didn't file suit against anyone.
 - 2. We didn't file any commercial liens against anyone.
 - 3. We didn't use the redemption process on Expatriation- Repatriation Process.
- E. The troubles with the above programs are that none of those are designed to build a "substantive evidence" package in your name.
- F. It seems that few people understand the importance of "substantive evidence" or "due process."
- G. As far as we know only a very few people teach anything concerning substantive evidence or due process.
 - 1. Then there are those who pretend to teach about substantive evidence or due process.
 - 2. We wonder how those who teach some of those idiot legal arguments over and over, allowing people with good intentions to go to jail, can sleep at night.
 - 3. They encourage off point arguments on some minor issue and totally miss the BULLSEYE. However, they do a good job creating bad case law.

FAX

Date 7/11/01

Number of pages including cover sheet 4

TO: *Sally*

FROM: Richard F.

Phone

Fax Phone 313-557-0709

Phone

Fax Phone

CC:

REMARKS: Urgent For your review Reply ASAP Please Comment

I am sending you this letter I received from the IRS for your info.

Thanks for all your help.

Dick and Ruth



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

SMALL BUSINESS/SELF-EMPLOYED DIVISION

Date: JUL 05 2001

Richard F.

Re: Withdrawal of Filed Notice of Federal Tax Lien

The IRS filed a Notice of Federal Tax Liens against your property. We have enclosed a copy for your records of a Withdrawal of Filed Notice of Federal Tax Liens. This will be recorded with the Sacramento County Recorder's Office where the original Notice of Federal Tax Liens was filed. The Withdrawal Notice shows that the original Notice of Federal Tax Liens will have no effect against your property.

If you have any questions, please contact M. Antonio, ID # 94-03529, Technical Support Advisor at (510) 637-4660 or send a letter to 1301 Clay St., Suite 1400-S, Oakland, CA 94612.

Sincerely,

Peggy C. Rule, ID #77-02423
Director, SB/SE Compliance Area 13

By: *C. Van Hook for*
John Tam, ID# 94-06455
Technical Support Manager

Enclosure – Notice of Withdrawal of Filed Notice of Federal Tax Lien

Department of the Treasury - Internal Revenue Service
Form 10916(c)
 (Rev. 10-2000) 2673
Withdrawal of Filed Notice of Federal Tax Lien

Area: SMALL BUSINESS/SELF EMPLOYED AREA #13
 Lien Unit Phone: (510) 637-2386
 Serial Number: 940101431
For Optional Use by Recording Office

I certify that the following-named taxpayer has met one or more of the elements of the Internal Revenue Code (IRC) section 6323(j). The Internal Revenue Service therefore withdraws the Notice of Federal Tax Lien for these taxes and additions. The withdrawal of this notice of lien does not affect the statutory lien provided by IRC section 6321; it simply relinquishes any lien priority obtained by the Internal Revenue Service when the notice was filed. The proper official, in the office where the Notice of Federal Tax Lien was filed on January 19, 2001, is authorized to update the records to show the withdrawal of the notice of lien for these taxes and additions.

Name of Taxpayer: HOLDINGS TRUST, AS NOMINEE
 OR TRANSFEREE OF
 AND/OR

Residence:
 COURT RECORDING INFORMATION:
 Liber Page UCC No. Serial No.
 20010119 0327 n/a n/a

Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
1040	12/31/1994		10/13/1997	11/12/2007	22869.64
1040	12/31/1994		05/29/2000	06/28/2010	6530.00
1040	12/31/1995		11/27/2000	12/27/2010	137227.03
1040	12/31/1996		11/27/2000	12/27/2010	23862.36
1040	12/31/1997		11/27/2000	12/27/2010	25851.52
1040	12/31/1998		07/31/2000	08/30/2010	27433.96
1040	12/31/1999		06/19/2000	07/19/2010	15974.13

Place of Filing: COUNTY RECORDER
 SACRAMENTO COUNTY
 SACRAMENTO, CA 95812
 Total \$ 259748.64

This notice was prepared and signed at OAKLAND, CA, on this,

the 05th day of July, 2001.

Signature: *C. Van Hook for*
 Title: Compliance Technical Support Manager

Department of the Treasury - Internal Revenue Service

Form 10916(c)
(Rev. 10-2000) 2673

Withdrawal of Filed Notice of Federal Tax Lien

Area: SMALL BUSINESS/SELF EMPLOYED AREA #13 Lien Unit Phone: (510) 637-2386	Serial Number 940000154	<i>For Optional Use by Recording Office</i>
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I certify that the following-named taxpayer has met one or more of the elements of the Internal Revenue Code (IRC) section 6323(j). The Internal Revenue Service therefore withdraws the Notice of Federal Tax Lien for these taxes and additions. The withdrawal of this notice of lien does not affect the statutory lien provided by IRC section 6321; it simply relinquishes any lien priority obtained by the Internal Revenue Service when the notice was filed. The proper official, in the office where the Notice of Federal Tax Lien was filed on January 09, 2001, is authorized to update the records to show the withdrawal of the notice of lien for these taxes and additions.

Name of Taxpayer

Residence

COURT RECORDING INFORMATION:
Liber Page UCC No. Serial No.
20010109 0363 N/A N/A

Kind of Tax <i>(a)</i>	Tax Period Ending <i>(b)</i>	Identifying Number <i>(c)</i>	Date of Assessment <i>(d)</i>	Last Day for Refiling <i>(e)</i>	Unpaid Balance of Assessment <i>(f)</i>
1040	12/31/1995		11/27/2000	12/27/2010	137227.03
1040	12/31/1996		11/27/2000	12/27/2010	23862.36
1040	12/31/1997		11/27/2000	12/27/2010	25851.52

Place of Filing COUNTY RECORDER SACRAMENTO COUNTY SACRAMENTO, CA 95812	Total	\$ 186940.91
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This notice was prepared and signed at OAKLAND, CA, on this, the 05th day of July, 2001.

Signature <i>C. Van Hook, FR</i>	Title Compliance Technical Support Manager
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Department of the Treasury Internal Revenue Service

Withdrawal of Filed Notice of Federal Tax Lien

Form 10916(c)
(Rev. 10-2000) 2673

Area: SMALL BUSINESS/SELF EMPLOYED AREA #13 Lien Unit Phone: (510) 637-2386	Serial Number 940101433	<i>For Optional Use by Recording Office</i>
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I certify that the following-named taxpayer has met one or more of the elements of the Internal Revenue Code (IRC) section 6323(j). The Internal Revenue Service therefore withdraws the Notice of Federal Tax Lien for these taxes and additions. The withdrawal of this notice of lien does not affect the statutory lien provided by IRC section 6321; it simply relinquishes any lien priority obtained by the Internal Revenue Service when the notice was filed. The proper official, in the office where the Notice of Federal Tax Lien was filed on January 19, 2001, is authorized to update the records to show the withdrawal of the notice of lien for these taxes and additions.

Name of Taxpayer TRUSTEES OF THE
HOLDINGS TRUST, AS NOMINEE
OR TRANSFEREE OF

Residence

COURT RECORDING INFORMATION:

Liber Page UCC No. Serial No.
20010119 0326 n/a n/a

Kind of Tax <i>(a)</i>	Tax Period Ending <i>(b)</i>	Identifying Number <i>(c)</i>	Date of Assessment <i>(d)</i>	Last Day for Refiling <i>(e)</i>	Unpaid Balance of Assessment <i>(f)</i>
1040	12/31/1994		10/13/1997	11/12/2007	22869.64
1040	12/31/1994		05/29/2000	06/28/2010	6530.00
1040	12/31/1995		11/27/2000	12/27/2010	137227.03
1040	12/31/1996		11/27/2000	12/27/2010	23862.36
1040	12/31/1997		11/27/2000	12/27/2010	25851.52
1040	12/31/1998		07/31/2000	08/30/2010	27433.96
1040	12/31/1999		06/19/2000	07/19/2010	15974.13

Place of Filing COUNTY RECORDER SACRAMENTO COUNTY SACRAMENTO, CA 95812	Total	\$ 259748.64
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This notice was prepared and signed at OAKLAND, CA, on this,

the 05th day of July, 2001.

Signature <i>C. Van Hook for</i>	Title Compliance Technical Support Manager
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Inspector General for Tax Administration Report
March 27,2002

- A. We have included the following 25-page report concerning collection due process hearings by the Inspector General for Tax Administration so you can realize the importance of and the reason why you should request a collection due process hearing.
 - 1. There are those who will tell you not to pick up any letters from the IRS.
 - 2. Then there are those who will tell your not to open IRS letters and to stamp the outside of the envelope refused for fraud or a number of other procedures that don't work.

- B. How you want to handle correspondence from the IRS is up to you and we can only make suggestions to you based on our study of IRS manuals, handbooks, publications, reports, etc.

- C. The 1998, Tax Reform and Restructuring Act included a provision for a collection Due process hearing before a IRS lien or levy could be placed against someone.

- D. How you handle this hearing is your call. We have talked to very few people who know the first thing about one of these hearings and how to follow-up.
 - 1. We have helped hundreds of people with these hearings, as these hearings are unique to your specific situation.
 - 2. If you contact us we can tutor you through this CDP hearing and help you put together an evidence package.

- E. We have on our literature list number #107 "Treasury Inspector General For Tax Administration," which will give you more background in this area.

- F. Now lets go to page 31 of this report entitled Synopsis of the Internal Revenue Service Collection, Lien, and Levy Filing Processes and the Collection Due Process.
 - 1. Read pages 31 through 33 very carefully. We suggest you read this several times.

2. At the first arrow we see that the Lien or Levy accounts are kept in a system called "Integrated Collection System."
 - a. If this pertains to you then do a FOIA request (See page 116).
3. At the second arrow we see, "This taking of money that is owed to the taxpayer by a third party is commonly referred to as a levy."
 - a. Review the June 2002 VIP Dispatch for more information on Levies.
4. Third arrow cites 26 USC sec. 6321, go to exhibit D, 1 of 2 and 2 of 2 page 3.
 - a. If you go to Exhibit D, 2 of 2 it shows title 27 CFR part 70, as the CFR not Title 26.
5. Go to the fourth arrow where we see the word "ASSESSMENT." Now go to our May 2002 VIP Dispatch and review the information on Assessments
6. At the fifth arrow we see when you can do a collection Due Process Hearing.
 - a. There actually several groups and individuals telling you not to do this step, or that it is a waste of your time, or if you do this hearing you will be giving the IRS jurisdiction over you.
 - b. Of course we do not agree with any of those positions.
7. Top of page 3 levy.
 - a. A levy is a legal seizure of property to satisfy a tax debt.
 - b. A lien is a claim used as security for the tax debt.
 - c. A levy actually takes the property to satisfy a tax debt.
 - d. The IRS authority is 26 USC 6331 which we covered in June 2002 Dispatch.
8. The IRS does not Levy unless:
 - a. It has made an Assessment, see our May 2002 issue.
9. IRS must send a final Notice of Intent to Levy and a Notice of Right to Hearing.
 - a. Contact us if you are in this status.
10. Collection Due Process (CDP) Hearing.

- a. 26 USC 6320 page 38
- b. 26 USC 6330 page 41
- c. This is where the IRS can get somewhat deceptive as to the letters and notices they send out.
- d. Many people who receive this type of correspondence do not even know that they can request a “Due Process Hearing.”
- e. If you do not Properly request a “Due Process Hearing”, the IRS is going to go ahead and put a levy or lien on you.
- f. To look at a sample “Request for a Collection Due Process Hearing” go to Exhibit A, 1 of 1. **pg 37**
 1. Simply print the information requested on the top third of the page.
 2. As you see in the center of the page covers lien or levy and explain you do not agree.
 3. Look at the statement next to the arrow. This is what is usually used as the explanation.
 4. If you were dealing with a Levy Notice, you would put that same type of statement under Notice of Levy.
 5. This form does not need an OMB control number or an expiration date. Not every form the IRS sends out needs an OMB number.
 6. If you do not send this form in on time, then you have waived this hearing.

G. This Due Process Hearing is very important and we recommend you contact us ASAP concerning this hearing.

H. Go to page 33 and read the paragraph marked by the arrow.

1. It says, “At the conclusion of the hearings, Appeals will issue a written determination letter.”
2. We suggest that you have a Court Reporter go to the Hearing with you and follow the system that we suggest to you. You can also do a “DETERMINATION LETTER” when you get the transcript back from the reporter.
 - a. It is to your advantage if you can get your determination letter in first.

- b. They then have to rebut your determination letter. If they do you can then rebut their letter.

I. We have included the following exhibits. These go with Appeals documents:

1. Exhibit A: Request for a Collection Due Process Hearing.
2. Exhibit B: Title 26, Subtitle F, Subchapter C, Part 1, Sec. 6320.
 - a. This section is also quoted at the top of Exhibit A.
 - b. Exhibit B, 3 of 3, where is the CFR section?
3. Exhibit C “6330” Notice and opportunity for hearing before levy.
4. Exhibit D, Sec. 7803- Commissioner of Internal Revenue, other officials.
 - a. Exhibit D, 13 of 13 as you see there is no parallel authorities in the CFR.
5. Exhibit E, 26 USC 6321 Lien for taxes.
 - a. “If any person liable” what is the definition of person they are using? How are you liable? “To pay any tax”, what type of tax? What is the correct form? What is the specific statute and implementing regulation for the particular tax? “Neglects or refuses to pay the same after demand,” go to May 2002 Dispatch and where are the valid assessment documents? The amount (including any interest, additional amount, addition to tax, or assessable penalty, together with any cost that may accrue in addition there to). Where is the Non-Master file Assessment Voucher? “Shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person.” Was the lien properly filed? Where are the proper documents? Have you had your Collection Due Process Hearing?
 - b. Go to Exhibit E, 2 of 2 and where do you find the Parallel authorities for 26 USC 6321? 27 CFR part 70 or in other words Excise Taxes.
 - c. What excise Tax are you involved in or what excise tax did they place you into in order to do to you what they are doing?
6. Exhibit F, 26 CFR 301.6330 1T, Revised April 1, 2001.
 - a. We print out and put this information in this and other “VIP Dispatches” for your educational purposes only.

- b. If you want to study Due Process Hearings then you will want to read this exhibit and it will answer many of your questions.
- c. Exhibit F, 9 of 13 at the arrow tells about the importance of the Notice of Determination.

PROCEDURE-PROCEDURE-PROCEDURE

**Appeals Is Generally Complying With the
Requirements of the Law for Lien and Levy
Appeals Cases**

March 2002

Reference Number: 2002-10-068

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



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

March 27, 2002

MEMORANDUM FOR CHIEF, APPEALS

Pamela J. Gardiner

FROM: Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Audit Report - Appeals Is Generally Complying With the
Requirements of the Law for Lien and Levy Appeals Cases
(Audit # 200110036)

This report presents the results of our review of the office of the Chief, Appeals' compliance with the law for lien and levy cases. The overall objective of this review was to determine if the Internal Revenue Service (IRS) Appeals complied with 26 U.S.C. §§ 6320 and 6330¹ when taxpayers exercise their right to appeal the filing of a lien or the intent to levy. The Treasury Inspector General for Tax Administration (TIGTA) is required to determine annually whether the IRS complies with the legal guidelines and required procedures for the filing of a notice of lien or a notice of intent to levy and the right of the taxpayer to appeal.²

In summary, Appeals Officers generally complied with the requirements of the law in 85 of the 87 cases reviewed (98 percent). However, in 2 of the 87 cases (2 percent), Appeals Officers either did not adequately balance the efficiency of the proposed collection action against the taxpayer's legitimate concerns that the action be no more intrusive than necessary or did not obtain adequate verification from the IRS that all regulations had been met. The TIGTA does not believe that, in either of these cases, the IRS violated the taxpayers' collection due process rights.

Additionally, in 82 of the 87 cases, Appeals adequately communicated the decision to taxpayers. While these results indicate an improvement in communicating Appeals'

¹ 26 U.S.C. §§ 6320 and 6330 (Supp. IV 1998).

² 26 U.S.C. § 7803(d)(1)(A)(iii) and (iv) (Supp. IV 1998).

decisions to taxpayers when compared to the prior year's audit,³ further improvements could be made by ensuring all determination letters address all the provisions of the law considered in the decision and by ensuring all established guidelines are followed.

We recommended that Appeals provide additional training and guidance to its officers on balancing the proposed collection action against the taxpayer's concerns on the intrusiveness of the action when resolving Collection Due Process (CDP) cases where the taxpayer claims a hardship. We also recommended that Appeals finalize and distribute to its employees the CDP case processing guide and internal manual.

Appeals management agreed that while the results indicate an improvement since the prior audit, improvements are still needed. Appeals agreed to include examples of balancing in hardship situations in the Determination Letter Guide and to provide additional training to employees on balancing the collection action against the taxpayer's concerns in hardship situations. Appeals also completed and distributed to employees the Determination Letter Guide and its internal guidance manual.

Please contact me at (202) 622-6510 if you have questions or Daniel R. Devlin, Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

³ *Taxpayer Service on Lien and Levy Appeals Could Be Further Improved* (Reference Number 2001-10-068, dated May 2001).

**Appeals Is Generally Complying With the Requirements
of the Law for Lien and Levy Appeals Cases**

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Appeals Is Generally Complying With the Requirements of the Law for Lien and Levy Appeals Cases

Background

When initial contacts by the Internal Revenue Service (IRS) do not result in the successful collection of unpaid taxes, the IRS has the authority to attach a claim to the taxpayer's assets for the amount of unpaid tax liability.¹ This claim is commonly referred to as a "lien." The IRS also has the authority to work directly with financial institutions and other parties to obtain from them funds that are owed to the taxpayer.² This procedure is commonly referred to as a "levy."

Since January 19, 1999, the IRS has been required to notify taxpayers in writing when a Notice of Federal Tax Lien has been filed and to let taxpayers know of its intent to levy. The taxpayers may appeal the lien or levy action. This appeal or hearing is called the Collection Due Process (CDP). A synopsis of the IRS collection, lien, and levy filing processes and the CDP is included in Appendix V.

The Treasury Inspector General for Tax Administration (TIGTA) is required to determine annually whether the IRS office of the Chief, Appeals, is complying with the legal guidelines and required procedures for the filing of a notice of lien or a notice of intent to levy and the right of the taxpayer to appeal. This is the second audit conducted by the TIGTA of Appeals' compliance with the CDP guidelines and procedures. In the prior year, the TIGTA reported that the IRS generally complied with the requirements of the law and ensured taxpayers' appeal rights were protected for the 66 CDP cases reviewed during the audit.³ However, 9 of 66 determination letters provided to taxpayers did not outline completely all provisions of the law considered in the decisions.

We performed this audit in the National Headquarters office of the Chief, Appeals, from July to December 2001. The audit was conducted in accordance with *Government*

¹ 26 U.S.C. § 6321 (1994).

² 26 U.S.C. § 6331 (1994 and Supp. IV 1998).

³ *Taxpayer Service on Lien and Levy Appeals Could Be Further Improved* (Reference Number 2001-10-068, dated May 2001).

Appeals Is Generally Complying With the Requirements of the Law for Lien and Levy Appeals Cases

Appeals Officers Generally Complied With the Law When Conducting Hearings

Auditing Standards. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

In 85 of the 87 cases reviewed (approximately 98 percent), Appeals Officers complied with the requirements of 26 U.S.C §§ 6320 and 6330.⁴ Appeals Officers who had no prior involvement with the unpaid tax conducted the hearing. The Appeals Officers generally:

- Obtained verification that the IRS followed the applicable laws or administrative procedures.
- Considered the specific challenges raised by the taxpayers.
- Considered whether the proposed collection actions properly balanced the need for efficient collection of taxes with any legitimate concerns of the taxpayers about the intrusiveness of the liens or levies.

The Appeals Officers also considered other collection alternatives, when appropriate.

However, in 2 of the 87 cases reviewed (2 percent), Appeals Officers did not always follow all the requirements of the law. The TIGTA does not believe that in either of these cases the noncompliance resulted in a legal violation of the taxpayer's CDP rights since no collection actions were ever initiated. We projected our findings to the total population of 1,701 open CDP cases on the Appeals inventory control system, the Appeals Centralized Database System (ACDS), with determination letters issued between August 1, 2000, and July 31, 2001. We estimated that similar taxpayer entitlements could have been affected in 39 cases. If in the 39 potentially affected cases, Appeals Officers did not follow all the requirements of the law and collection actions had been initiated, there is a potential for legal violations.

⁴ 26 U.S.C. §§ 6320 and 6330 (Supp. IV 1998).

Appeals Is Generally Complying With the Requirements of the Law for Lien and Levy Appeals Cases

For one case, the Appeals Officer determined that the taxpayer was suffering a hardship but still sustained the levy. In March 2001, IRS' General Counsel advised Appeals that the Appeals Officer was required to independently analyze the facts and circumstances presented to the Appeals Officer at the time of the CDP hearing. Even if the taxpayer proposed no acceptable alternative, the Appeals Officer should have made an independent determination whether the proposed levy was too intrusive and whether the proposed levy balanced the need for efficient collection of taxes against the taxpayer's concerns.⁵

The TIGTA believes the taxpayer's rights were not violated since sustaining the levy had no immediate adverse affect on the taxpayer. Prior to the CDP hearing, the IRS had suspended collection action until the taxpayer's financial situation improved. The Appeals Officer acknowledged that the taxpayer did not currently have sufficient assets to pay the liability but was nevertheless sustaining the levy.

For the second case, it does not appear that the Appeals Officer obtained verification that all administrative procedures had been met. The IRS collection employee who worked the case and issued the notice of intent to levy did not properly identify levy sources prior to issuing the notice. IRS guidelines state that a levy notice should not be sent unless there is a levy source and levy is the next planned action. Yet, the Appeals Officer stated in the determination letter that all administrative procedures had been met. Again, the TIGTA believes that this noncompliance with the law and administrative procedures had no immediate adverse affect on the taxpayer.

Appeals provided training and guidance to employees working CDP cases. However, Appeals acknowledged that the training emphasized more routine CDP case resolution and may not have provided enough guidance on hardship

⁵*Determination Letter, CDP Appeals Case Memorandum and Other Documents Comprising the Administrative Record, GL-101389-01, March 9, 2001.*

Appeals Is Generally Complying With the Requirements of the Law for Lien and Levy Appeals Cases

situations. In addition, according to Appeals Headquarters personnel, many employees continue to have difficulty with balancing the efficiency of the proposed collection action against the taxpayers' legitimate concerns that the action be no more intrusive than necessary and with documenting their decision process in the case file.

Appeals is preparing a CDP case processing guide; however, it has not been finalized and distributed to employees. Until the guide is completed, employees use training materials, coaches, e-mails, IRS internal manuals and other sources for guidance on CDP case resolution and documentation. In addition, Appeals' own internal manual is being revised to include updated requirements of the law, but the revision has not been completed.

Recommendation

The Chief, Appeals, should ensure that:

1. Appeals Officers are provided additional training and guidelines on balancing the proposed collection action against the taxpayer's concerns on the intrusiveness of the action when resolving CDP cases where the taxpayer claims a hardship.

Management's Response: Appeals agreed that reinforced training on CDP issues and procedures is needed and stated that it will cover balancing the collection action against the taxpayer's concern in hardship situations in its Continuing Professional Educations sessions. Appeals also agreed to provide examples of hardship balancing in its Determination Letter Guide.

Determination Letters Did Not Always Address All Provisions of the Law

In 5 of the 87 cases reviewed (approximately 6 percent), determination letters did not completely address all the provisions of the law considered in the decision or did not follow established IRS guidelines. We projected our findings to the total population of 1,701 open CDP cases on the ACDS with determination letters issued between August 1, 2000, and July 31, 2001. We estimated that similar taxpayer entitlements could have been affected in 98 determination letters.

Appeals Is Generally Complying With the Requirements of the Law for Lien and Levy Appeals Cases

While the above results indicate an improvement in communicating Appeals' decisions to taxpayers compared to the prior year's audit, additional improvements are needed.

The five determination letters did not always:

- Contain all the required information on which court the taxpayer should petition if the taxpayer wished to contest Appeals' determination.
- Document that the intrusiveness of the proposed collection action was considered during the hearing.
- Contain information on the agreements reached during the hearing or the actions required by the IRS or the taxpayer.
- Document that all issues raised by the taxpayer were considered during the hearing.

The Code of Federal Regulations⁶ and Appeals procedures state that the determination letters must address all issues raised by the taxpayer and whether the IRS followed all the applicable rules and administrative procedures and balanced tax collection with the taxpayers' legitimate concerns. IRS guidelines also state that specific information be provided concerning which court the taxpayer must file his request for judicial review, as well as information about any agreements reached during the hearing and the actions to be taken by the IRS or the taxpayer.

When this issue was identified and reported in the prior audit report, Appeals management responded that a memorandum was issued immediately reminding employees of the requirements. In addition, management stated that they would develop and distribute a CDP case processing guide on the proper preparation of the determination letter and Appeals Case Memorandum. However, at the time of this audit, Appeals had not finalized the guide.

⁶ 26 CFR 301.6330-1T(e)(Q-E7).

Appeals Is Generally Complying With the Requirements of the Law for Lien and Levy Appeals Cases

If the letters provided to taxpayers do not fully explain the basis for Appeals' determination and address all relevant issues, the taxpayers and any reviewing courts might not be able to easily determine that all the laws and administrative procedures were followed and that all the relevant facts presented by the taxpayers were considered. This could place additional burden on taxpayers if they cannot determine the basis for Appeals' decision or whether all the taxpayers' issues were addressed. This could also affect taxpayers' rights if taxpayers and reviewing courts cannot make this determination.

Recommendation

The Chief, Appeals, should ensure that:

2. The CDP case processing guide and internal manual are finalized and distributed to employees.

Management's Response: Appeals stated that it completed the Determination Letter Guide and distributed it to employees on November 14, 2001. It added the Guide to the CDP Web Page on December 21, 2001. In addition, Appeals distributed the final draft of the CDP internal guidance document on November 14, 2001, effective immediately.

Appeals Is Generally Complying With the Requirements of the Law for Lien and Levy Appeals Cases

Appendix I

Detailed Objective, Scope, and Methodology

The objective of this audit was to determine if the Internal Revenue Service (IRS) complied with 26 U.S.C. §§ 6320 and 6330¹ when taxpayers exercise their right to appeal the filing of a lien or the intent to levy.

- I. To determine if any new procedures or processes had been developed since the prior review,² we held discussions with the appropriate analyst in the IRS' office of the Chief, Appeals, in the National Headquarters.
- II. To determine if the corrective actions from the prior report had been implemented, we interviewed the appropriate Appeals employees and obtained the appropriate documentation.
- III. To determine if Appeals Officers appeared to be in compliance with the law, we:
 - A. Selected a statistical sample of 87 cases for review from a download of 5,443 case inventory records controlled on the Appeals inventory control system, the Appeals Centralized Database System (ACDS). We eliminated docketed cases, cases with transfer indicators, and equivalent hearing cases. This resulted in a population of 1,701 open, non-docketed cases in which Appeals had issued determination letters between August 1, 2000, and July 31, 2001. We used attribute sampling and the following formula to calculate the sample size (n):

$$n = (NZ^2p(1-p))/(NE^2+Z^2p(1-p)).$$

N = Population (1,701 CDP cases).
Z = Desired Confidence Level (95 percent).
p = Expected Error Rate (4 percent*).
E = Precision Level (4 percent).

*Since the prior audit identified no errors for legal violations, we first analyzed a judgmental sample of 50 Collection Due Process (CDP) cases randomly selected and identified a 4 percent error rate. We used this error rate to calculate the statistically valid sample.

¹ 26 U.S.C. §§ 6320 and 6330 (Supp. IV 1998).

² *Taxpayer Service on Lien and Levy Appeals Could Be Further Improved* (Reference Number 2001-10-068, dated May 2001).

**Appeals Is Generally Complying With the Requirements
of the Law for Lien and Levy Appeals Cases**

NOTE: We used CDP inventory records provided by Appeals and did not determine if the data provided were complete. Our validation consisted of verifying the case data to the ACDS. We found no discrepancies.

- B. Reviewed the selected cases to determine whether Appeals Officers complied with 26 U.S.C. §§ 6320 and 6330 and related regulations and whether taxpayers' rights were protected.
- C. Discussed with the Treasury Inspector General for Tax Administration Counsel any cases or issues that appeared to be potential violations.
- IV. To determine if Appeals was complying with guidelines for documenting case actions when considering a CDP case, we used the sample of cases selected for Sub-objective III.A and ensured the determination letters outlined all provisions of the law considered in the decisions.
- V. To determine the cause of any violations or findings, we discussed any unresolved case issues with the Appeals National Headquarters analyst.

**Appeals Is Generally Complying With the Requirements
of the Law for Lien and Levy Appeals Cases**

Appendix II

Major Contributors to This Report

Daniel R. Devlin, Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs)
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Appendix III

Report Distribution List

Commissioner N:C
Deputy Commissioner N:DC
Chief Counsel CC
National Taxpayer Advocate TA
Director, Appeals SB/SE-TEGE Operating Unit AP
Director, Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis N:ADC:R:O
Director, Taxpayer Account Operations TA:TAO
Office of Management Controls N:CFO:F:M
Audit Liaison: Chief, Appeals AP

Appeals Is Generally Complying With the Requirements of the Law for Lien and Levy Appeals Cases

Appendix IV

Outcome Measures

This appendix presents detailed information on the measurable impact that our recommended corrective actions will have on tax administration. These benefits will be incorporated into our Semiannual Report to the Congress.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements –
 - Potential; 39 cases where Appeals Officers did not comply with all the requirements of the law during a Collection Due Process (CDP) hearing (see page 2).
 - Potential; 98 determination letters did not outline required information (see page 4).

Methodology Used to Measure the Reported Benefit:

From our nationwide statistically valid sample of 87 CDP cases:

- We identified two cases (approximately 2 percent) where Appeals Officers did not comply with all the requirements of the law during a CDP hearing. We projected our findings to the total population of 1,701 open CDP cases on the office of the Chief, Appeals, inventory control system, the Appeals Centralized Database System (ACDS), with determination letters issued between August 1, 2000, and July 31, 2001. We estimated that similar taxpayer entitlements could have been affected in 39 cases ($2/87 \times 1,701$ population). We are 95 percent confident that the number of cases where taxpayer rights and entitlements were potentially affected ranged between 2 and 91. Taxpayer rights and entitlements could be affected if Appeals Officers' noncompliance caused the lien or levy action to be incorrectly enforced.
- We identified five cases (approximately 6 percent) where Appeals determination letters did not outline all the required information. We projected our findings to the total population of 1,701 open CDP cases on the ACDS with determination letters issued between August 1, 2000, and July 31, 2001. We estimated that similar taxpayer entitlements could have been affected in 98 determination letters ($5/87 \times 1,701$ population). We are 95 percent confident that the number of cases where taxpayer rights and entitlements were potentially affected ranged between 17 and 179. Taxpayer rights and entitlements could be affected because taxpayers and reviewing courts may not be able to determine that Appeals complied with all laws and Internal Revenue Service guidelines during CDP hearings. NOTE: Both of the cases in the first category are also cases in the second category.

**Synopsis of the Internal Revenue Service
Collection, Lien, and Levy Filing Processes
and the Collection Due Process**

The collection of unpaid tax begins with a series of letters (notices) sent to the taxpayer advising of the debt and asking for payment of the delinquent tax. The Internal Revenue Service (IRS) computer systems are programmed to mail these notices when certain criteria are met. If the taxpayer does not respond to these notices, the account is transferred for either personal or telephone contact.

- IRS employees who make personal (face-to-face) contact with taxpayers are called Revenue Officers and work in the IRS field offices. The computer system used in most of the field offices to track collection actions taken on taxpayer accounts is called the Integrated Collection System.
- IRS employees who make only telephone contact with taxpayers are called Customer Service Representatives and work in call sites in IRS Customer Service offices. The computer system used in the call sites to track collection actions taken on taxpayer accounts is called the Automated Collection System.

When these efforts have been taken and the taxpayer has not paid the tax liability, designated IRS employees are authorized to file a Notice of Federal Tax Lien (FTL). In addition, the IRS has the authority to work directly with financial institutions and other parties to obtain funds owed to taxpayers. This taking of money that is owed to the taxpayer by a third party is commonly referred to as a “levy.”

Federal Tax Lien

Liens protect the government’s interest by attaching a claim to the taxpayer’s assets for the amount of unpaid tax liabilities. The right to file an FTL is created by 26 U.S.C. § 6321 (1994) when:

- The IRS has made an assessment and given the taxpayer notice of the assessment, stating the amount of the tax liability and demanding payment.
- The taxpayer has neglected or refused to pay the amount within 10 days after the notice and demand for payment.

The IRS is required to notify the taxpayer the first time an FTL is filed for each tax period. It has to notify the taxpayer within 5 days after the lien notice filing. The taxpayer then has 30 days, after that 5-day period, to request a hearing with the office of the Chief, Appeals.

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Levy

A levy is a legal seizure of property to satisfy a tax debt. Levies are different from liens. A lien is a claim used as security for the tax debt, while a levy actually takes the property to satisfy the tax debt. The IRS authority to work directly with financial institutions and other parties to obtain funds owed to taxpayers is provided by 26 U.S.C. § 6331 (1994 and Supp. IV 1998).

The IRS usually does not levy unless:

- It has made an assessment and given the taxpayer notice of the assessment, stating the amount of the tax liability and demanding payment.
- It has sent a Final Notice of Intent to Levy and a Notice of Right to Hearing (levy notice) at least 30 days before the levy action. This 30-day period allows the taxpayer time to solve any problems from the levy or to make other arrangements to pay.

For each tax period, the IRS is required to notify the taxpayer the first time it intends to collect a tax liability by taking the taxpayer's property or rights to property. It does this by sending the taxpayer a levy notice. The IRS cannot levy on or seize property within 30 days from the date this notice is mailed, given to the taxpayer, or left at the taxpayer's home or office. During that 30-day period, the taxpayer may request a hearing with Appeals.

There are two exceptions to this notice of intent to levy provision. The IRS may issue a levy without sending this notice or waiting 30 days when collection of the tax is in jeopardy. It may also levy on a taxpayer's State tax refund without sending a notice or waiting 30 days. However, the taxpayer can request a hearing after the levy action for both of these instances.

Collection Due Process (CDP) Hearing

The IRS is required by 26 U.S.C. §§ 6320 and 6330 (Supp. IV 1998) to notify taxpayers in writing that an FTL has been filed and to let taxpayers know of its intent to levy. The request must be in writing and within the time prescribed by the law. Taxpayers are entitled to one hearing per tax liability period for which an FTL or intent to levy has been filed. The hearing is to be conducted in Appeals by an Appeals Officer who had no prior involvement with the unpaid tax; the taxpayer may waive this requirement.

Unless the IRS believes that collection of the tax is in jeopardy, the IRS will stop the levy during the appeals process. In addition, the IRS will also suspend the 10-year collection statute of limitations during the appeal process and until the determination is final.

The taxpayer may raise any relevant issue related to the unpaid tax or the proposed levy, including:

- Spousal defenses.
- The appropriateness of collection actions.

Appeals Is Generally Complying With the Requirements of the Law for Lien and Levy Appeals Cases

- Other collection alternatives.
- The existence or amount of the tax, but only if the taxpayer did not receive a notice of deficiency for that liability or did not have an opportunity to dispute the tax liability.

An issue may not be raised at the CDP hearing if the taxpayer participated meaningfully in any previous administrative or judicial proceeding where the same issue was already raised and considered.

The Appeals Officer must:

- Obtain verification from the IRS that the requirements of any applicable law or administrative procedure have been met.
- Consider the specific challenges raised by the taxpayer.
- Consider whether the proposed collection action properly balances the need for efficient collection of taxes with any legitimate concern of the taxpayer that the proposed collection action is more intrusive than necessary.

At the conclusion of the hearing, Appeals will issue a written determination letter. The determination letter explains Appeals' findings and decisions, as well as any agreements Appeals reached with the taxpayer, any relief given the taxpayer, and any actions the taxpayer and/or the IRS are required to take. The determination letter must also demonstrate that the Appeals Officer complied with all the requirements of 26 U.S.C. §§ 6320 and 6330.

The taxpayer may seek judicial review of Appeals' determination in the Tax Court or U.S. District Court by filing a petition or complaint in the appropriate court within 30 days of the date of Appeals' determination. If the court determines that the appeal was to an incorrect court, the taxpayer has 30 days after the court determination to file the appeal with the correct court.

Appeals will retain jurisdiction over its determinations and how they are carried out. The taxpayer may also return to Appeals if circumstances change and affect the original determination.

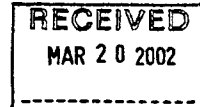
Appeals Is Generally Complying With the Requirements
of the Law for Lien and Levy Appeals Cases

Appendix VI

Management's Response to the Draft Report



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



MAR 14 2002

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM:

Daniel L. Black Jr.
Daniel L. Black Jr.
National Chief, Appeals

SUBJECT:

Draft Report – Appeals Is Generally Complying With the
Requirements of the Law for Lien and Levy Appeals Cases

I have reviewed the above reference draft report, and was pleased you found that Appeals Officers generally complied with the law when conducting Collection Due Process (CDP) hearings. I am also pleased that the situation seems to have improved since the last audit. I agree that improvements are still needed and will address your specific recommendations as follows.

RECOMMENDATION #1

The Chief, Appeals should ensure that:

1. Appeals Officers are provided additional training and guidelines on balancing the proposed collection action against the taxpayer's concerns on the intrusiveness of the action when resolving CDP cases where the taxpayer claims a hardship.

ASSESSMENT OF CAUSE

You noted that Appeals Officers generally complied with the law when conducting hearings, and that Appeals Officers generally:

- Obtained verification that the IRS followed applicable laws or administrative procedures
- Considered the specific challenges raised by the taxpayers
- Considered whether the proposed collection actions properly balanced the need for efficient collection of taxes with any legitimate concerns of the taxpayers about the intrusiveness of the liens or levies

However, you noted 2 cases that did not adequately or appropriately address one of the items above. In one of the cases the Appeals Officer determined that the taxpayer was suffering a hardship but still sustained the levy. In this case, a misunderstanding on how to discuss the balancing aspect in hardship situations seems to have occurred. In

Appeals Is Generally Complying With the Requirements of the Law for Lien and Levy Appeals Cases

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the second case, the Appeals Officer stated that the IRS had met all administrative procedures when the revenue officer had not identified levy sources, which is an administrative requirement before sending the CDP notice. In the past year we have substantially increased the number of employees who are working CDP cases, due to a very large number of CDP cases. Employees who are not familiar with Collection issues have received training before they started working these cases, but it takes time to become familiar with all the issues that may occur. We recognize the need for training reinforcement. In addition to their initial training, we are covering CDP issues in every Continuing Professional Education (CPE) session. This occurred last in 2001 and will soon occur in 2002. In addition, on the job instruction is available from Settlement Officers (Appeals Officers with a Collection background) to assist in answering questions. We are continuing to address issues as we become aware of them. One of our more effective ways to do this has been through a Collection Issues newsletter, posted to our internal CDP Web page. We have dedicated and continue to dedicate a substantial amount of training time to these issues. Appeals employees are dedicated to preserving taxpayer rights and to doing an excellent job in these CDP hearings, but those who lack extensive collection experience may not always recognize an issue that needs special language in our Notice of Determination. In addition, the CDP process is evolving somewhat with experience and litigation, and procedures for what employees should address in a Notice of Determination are also changing. We will continue to distribute information on issues and changes through memoranda, newsletters, the Web page, and the Internal Revenue Manual. We will also conduct training, as necessary.

AGREED ACTIONS

We will:

1. Add examples of hardship balancing to our Determination Letter Guide.
2. Cover balancing of hardship in this year's CPE.

IMPLEMENTATION DATE (S)

Action 1- completed and shared with our field offices on 11/14/01
Action 2- scheduled training for completion in June, but selected September 30, 2002, in case part of it is delayed.

RESPONSIBLE OFFICIAL (S):

National Chief, Appeals

RECOMMENDATION # 2

The Chief, Appeals, should ensure that:

Appeals Is Generally Complying With the Requirements of the Law for Lien and Levy Appeals Cases

3

The CDP case processing guide and internal manual are finalized and distributed to employees.

ASSESSMENT OF CAUSE:

You noted that determination letters did not always address all the provisions of the law. You noted that 5 of the 87 cases did not completely address all the provisions of the law or follow all the established guidelines. Two instances were situations where the Appeals officer used determination letters that did not follow completely the prescribed language. The prescribed letters are available on ACDS, Appeals internal computer system but the employees were apparently using their own templates, which were incorrect. We sent out an article in our Web Page newsletter advising employees that we did not recommend using personal templates and that anyone who did so was responsible for regularly checking our ACDS system to ensure they used the approved language. You also found two instances of Appeals employees not adequately documenting in their determination letters consideration of the required matters. We continue to remind employees of the requirements and have added the determination letter guide to our CDP Web Page. We have completed the initial guide and will add new examples when approved.

AGREED ACTIONS:

We will:

1. Complete the Determination Letter Guide, distribute it to employees, and add it to the CDP Web Page
2. Complete the Appeals' Internal Revenue Manual (IRM) instructions on CDP and distribute it to employees (We will distribute it in final draft initially. We anticipate delays in publishing because the IRS completed a revision of the entire manual by December 31, 2001.)

IMPLEMENTATION DATE (S):

Action 1, Appeals distributed the Guide to employees on November 14, 2001, and added the Guide to the CDP Web Page on December 21, 2001.
Action 2, Appeals distributed the final draft CDP IRM to the employees on November 14, 2001. We instructed employees that it was effective immediately. We expect to publish it by March 19, 2002

RESPONSIBLE OFFICIAL (S):

National Chief, Appeals

If you have any questions, please call Cheryl Revier at (202) 694-1847.

Request for a Collection Due Process Hearing

Use this form to request a hearing with the IRS Office of Appeals only when you receive a **Notice of Federal Tax Lien Filing & Your Right To A Hearing Under IRC 6320**, a **Final Notice - Notice Of Intent to Levy & Your Notice Of a Right To A Hearing**, or a **Notice of Jeopardy Levy and Right of Appeal**. Complete this form and send it to the address shown on your lien or levy notice for expeditious handling. Include a copy of your lien or levy notice(s) to ensure proper handling of your request.

(Print) Taxpayer Name(s): _____

(Print) Address: _____

Daytime Telephone Number: _____ Type of Tax/Tax Form Number(s): _____

Taxable Period(s): _____

Social Security Number/Employer Identification Number(s): _____

Check the IRS action(s) that you do not agree with. Provide specific reasons why you don't agree. If you believe that your spouse or former spouse should be responsible for all or a portion of the tax liability from your tax return, check here [] and attach Form 8857, Request for Innocent Spouse Relief, to this request.

Filed Notice of Federal Tax Lien (Explain why you don't agree. Use extra sheets if necessary.)

"Notice of Federal Tax Lien" is mathematically incorrect.



Notice of Levy/Seizure (Explain why you don't agree. Use extra sheets if necessary.)

I/we understand that the statutory period of limitations for collection is suspended during the Collection Due Process Hearing and any subsequent judicial review.

Taxpayer's or Authorized Representative's Signature and Date: _____

Taxpayer's or Authorized Representative's Signature and Date: _____

IRS Use Only:

IRS Employee (Print): _____ IRS Received Date: _____

Employee Telephone Number: _____

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TITLE 26 > Subtitle F > CHAPTER 64 > Subchapter C > PART I > Sec. 6320.

Sec. 6320. - Notice and opportunity for hearing upon filing of notice of lien

(a) Requirement of notice

(1) In general

The Secretary shall notify in writing the person described in section 6321 of the filing of a notice of lien under section 6323.

(2) Time and method for notice

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 person's last known address,

not more than 5 business days after the day of the filing of the notice of lien.

(3) Information included with notice

The notice required under paragraph (1) shall include in simple and nontechnical terms -

(A)

the amount of unpaid tax;

(B)

the right of the person to request a hearing during the 30-day period beginning on the day after the 5-day period described in paragraph (2);

(C)

the administrative appeals available to the taxpayer with respect to such lien and the procedures relating to such appeals; and

(D)

the provisions of this title and procedures relating to the release of liens on property.

(b) Right to fair hearing

(1) In general

If the person requests a hearing under subsection (a)(3)(B), such hearing shall be held by the Internal Revenue Service Office of Appeals.

(2) One hearing per period

A person shall be entitled to only one hearing under this section with respect to the taxable period to which the unpaid tax specified in subsection (a)(3)(A) relates.

(3) Impartial officer

The hearing under this subsection shall be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section or section 6330. A taxpayer may waive the requirement of this paragraph.

(4) Coordination with section 6330

To the extent practicable, a hearing under this section shall be held in conjunction with a hearing under section 6330.

(c) Conduct of hearing; review; suspensions

For purposes of this section, subsections (c),

(d)

(other than paragraph (2)(B) thereof), and

(e)

of section 6330 shall apply



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Parallel authorities for 26 USC 6320 (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 6320).

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TITLE 26 > Subtitle F > CHAPTER 64 > Subchapter D > PART I > Sec. 6330.

Sec. 6330. - Notice and opportunity for hearing before levy

(a) Requirement of notice before levy

(1) In general

No levy may be made on any property or right to property of any person unless the Secretary has notified such person in writing of their right to a hearing under this section before such levy is made. Such notice shall be required only once for the taxable period to which the unpaid tax specified in paragraph (3)(A) relates.

(2) Time and method for notice

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, return receipt requested, to such person's last known address;

not less than 30 days before the day of the first levy with respect to the amount of the unpaid tax for the taxable period.

(3) Information included with notice

The notice required under paragraph (1) shall

relates.

(3) Impartial officer

The hearing under this subsection shall be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section or section 6320. A taxpayer may waive the requirement of this paragraph.

(c) Matters considered at hearing

In the case of any hearing conducted under this section -

(1) Requirement of investigation

The appeals officer shall at the hearing obtain verification from the Secretary that the requirements of any applicable law or administrative procedure have been met.

(2) Issues at hearing

(A) In general

The person may raise at the hearing any relevant issue relating to the unpaid tax or the proposed levy, including -

(i)

appropriate spousal defenses;

(ii)

challenges to the appropriateness of collection actions; and

(iii)

offers of collection alternatives, which may include the posting of a bond, the substitution of other assets, an installment agreement, or an offer-in-compromise.

(B) Underlying liability

The person may also raise at the hearing challenges to the existence or amount of the underlying tax liability for any tax period if the person did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability.

(3) Basis for the determination

include in simple and nontechnical terms -

(A)

the amount of unpaid tax;

(B)

the right of the person to request a hearing during the 30-day period under paragraph (2); and

(C)

the proposed action by the Secretary and the rights of the person with respect to such action, including a brief statement which sets forth -

(i)

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

(ii)

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

(iii)

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

(iv)

the alternatives available to taxpayers which could prevent levy on property (including installment agreements under section 6159); and

(v)

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

(b) Right to fair hearing

(1) In general

If the person requests a hearing under subsection (a)(3)(B), such hearing shall be held by the Internal Revenue Service Office of Appeals.

(2) One hearing per period

A person shall be entitled to only one hearing under this section with respect to the taxable period to which the unpaid tax specified in subsection (a)(3)(A)

The determination by an appeals officer under this subsection shall take into consideration -

(A)

the verification presented under paragraph (1);

(B)

the issues raised under paragraph (2); and

(C)

whether any proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the person that any collection action be no more intrusive than necessary.

(4) Certain issues precluded

An issue may not be raised at the hearing if -

(A)

the issue was raised and considered at a previous hearing under section 6320 or in any other previous administrative or judicial proceeding; and

(B)

the person seeking to raise the issue participated meaningfully in such hearing or proceeding.

This paragraph shall not apply to any issue with respect to which subsection (d)(2)(B) applies.

(d) Proceeding after hearing

(1) Judicial review of determination

The person may, within 30 days of a determination under this section, appeal such determination -

(A)

to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter); or

(B)

if the Tax Court does not have jurisdiction of the underlying tax liability, to a district court of the United States.

If a court determines that the appeal was to an incorrect court, a person shall have 30 days after the court determination to file such appeal with the correct

court.

(2) Jurisdiction retained at IRS Office of Appeals

The Internal Revenue Service Office of Appeals shall retain jurisdiction with respect to any determination made under this section, including subsequent hearings requested by the person who requested the original hearing on issues regarding -

(A)

collection actions taken or proposed with respect to such determination; and

(B)

after the person has exhausted all administrative remedies, a change in circumstances with respect to such person which affects such determination.

(e) Suspension of collections and statute of limitations

(1) In general

Except as provided in paragraph (2), if a hearing is requested under subsection (a)(3)(B), the levy actions which are the subject of the requested hearing and the running of any period of limitations under section 6502 (relating to collection after assessment), section 6531 (relating to criminal prosecutions), or section 6532 (relating to other suits) shall be suspended for the period during which such hearing, and appeals therein, are pending. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such hearing. Notwithstanding the provisions of section 7421(a), the beginning of a levy or proceeding during the time the suspension under this paragraph is in force may be enjoined by a proceeding in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction under this paragraph to enjoin any action or proceeding unless a timely appeal has been filed under subsection (d)(1) and then only in respect of the unpaid tax or proposed levy to which the determination being appealed relates.

(2) Levy upon appeal

Paragraph (1) shall not apply to a levy action while an appeal is pending if the underlying tax liability is not at issue in the appeal and the court determines that the Secretary has shown good cause not to suspend the levy.

(f) Jeopardy and State refund collection

TITLE 26 , Subtitle F , CHAPTER 64 , Subchapter D , PART I , Sec. 6330.

If -

(1)

the Secretary has made a finding under the last sentence of section 6331(a) that the collection of tax is in jeopardy; or

(2)

the Secretary has served a levy on a State to collect a

Federal tax liability from a State tax refund,

this section shall not apply, except that the taxpayer shall be given the opportunity for the hearing described in this section within a reasonable period of time after the levy



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Parallel authorities for 26 USC 6330 (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 6330).

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TITLE 26 > Subtitle F > CHAPTER 80 > Subchapter A > Sec. 7803.

Sec. 7803. - Commissioner of Internal Revenue; other officials

(a) Commissioner of Internal Revenue

(1) Appointment

(A) In general

There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the President, by and with the advice and consent of the Senate, to a 5-year term. Such appointment shall be made from individuals who, among other qualifications, have a demonstrated ability in management.

(B) Vacancy

Any individual appointed to fill a vacancy in the position of Commissioner occurring before the expiration of the term for which such individual's predecessor was appointed shall be appointed only for the remainder of that term.

(C) Removal

The Commissioner may be removed at the will of the President.

(D) Reappointment

The Commissioner may be appointed to more than one 5-year term.

(2) Duties

The Commissioner shall have such duties and powers as the Secretary may prescribe, including the power to -

(A)

administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party; and

(B)

recommend to the President a candidate for appointment as Chief Counsel for the Internal Revenue Service when a vacancy occurs, and recommend to the President the removal of such Chief Counsel.

If the Secretary determines not to delegate a power specified in subparagraph (A) or (B), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

(3) Consultation with Board

The Commissioner shall consult with the Oversight Board on all matters set forth in paragraphs (2) and (3) (other than paragraph (3)(A)) of section 7802(d).

(b) Chief Counsel for the Internal Revenue Service

(1) Appointment

There shall be in the Department of the Treasury a Chief Counsel for the Internal Revenue Service who shall be appointed by the President, by and with the consent of the Senate.

(2) Duties

The Chief Counsel shall be the chief law officer for the Internal Revenue Service and shall perform such duties as may be prescribed by the Secretary, including the duty -

(A)

to be legal advisor to the Commissioner and the Commissioner's officers and employees;

(B)

to furnish legal opinions for the preparation and review of rulings and memoranda of technical advice;

(C)

to prepare, review, and assist in the preparation of proposed legislation, treaties, regulations, and Executive orders relating to laws which affect the Internal Revenue Service;

(D)

to represent the Commissioner in cases before the Tax Court; and

(E)

to determine which civil actions should be litigated under the laws relating to the Internal Revenue Service and prepare recommendations for the Department of Justice regarding the commencement of such actions.

If the Secretary determines not to delegate a power specified in subparagraph (A), (B), (C), (D), or (E), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

(3) Persons to whom Chief Counsel reports

The Chief Counsel shall report directly to the Commissioner of Internal Revenue, except that -

(A)

the Chief Counsel shall report to both the Commissioner and the General Counsel for the Department of the Treasury with respect to -

(i)

legal advice or interpretation of the tax law not relating solely to tax policy;

(ii)

tax litigation; and

(B)

the Chief Counsel shall report to the General Counsel with respect to legal advice or interpretation of the tax law relating solely to tax policy.

If there is any disagreement between the Commissioner and the General Counsel with respect to

any matter jointly referred to them under subparagraph (A), such matter shall be submitted to the Secretary or Deputy Secretary for resolution.

(4) Chief Counsel personnel

All personnel in the Office of Chief Counsel shall report to the Chief Counsel.

(c) Office of the Taxpayer Advocate

(1) Establishment

(A) In general

There is established in the Internal Revenue Service an office to be known as the "Office of the Taxpayer Advocate".

(B) National Taxpayer Advocate

(i) In general

The Office of the Taxpayer Advocate shall be under the supervision and direction of an official to be known as the "National Taxpayer Advocate". The National Taxpayer Advocate shall report directly to the Commissioner of Internal Revenue and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Secretary of the Treasury so determines, at a rate fixed under section 9503 of such title.

(ii) Appointment

The National Taxpayer Advocate shall be appointed by the Secretary of the Treasury after consultation with the Commissioner of Internal Revenue and the Oversight Board and without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

(iii) Qualifications

An individual appointed under clause (ii) shall have -

(I)

a background in customer service as well as tax law; and

(II)

experience in representing individual taxpayers.

(iv) Restriction on employment

An individual may be appointed as the National Taxpayer Advocate only if such individual was not an officer or employee of the Internal Revenue Service during the 2-year period ending with such appointment and such individual agrees not to accept any employment with the Internal Revenue Service for at least 5 years after ceasing to be the National Taxpayer Advocate. Service as an officer or employee of the Office of the Taxpayer Advocate shall not be taken into account in applying this clause.

(2) Functions of office

(A) In general

It shall be the function of the Office of the Taxpayer Advocate to -

(i)

assist taxpayers in resolving problems with the Internal Revenue Service;

(ii)

identify areas in which taxpayers have problems in dealings with the Internal Revenue Service;

(iii)

to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii); and

(iv)

identify potential legislative changes which may be appropriate to mitigate such problems.

(B) Annual reports

(i) Objectives

Not later than June 30 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the

Office of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

(ii) Activities

Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Office of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall -

(I)

identify the initiatives the Office of the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness;

(II)

contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811;

(III)

contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems;

(IV)

contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action;

(V)

contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory;

(VI)

contain an inventory of the items described in subclauses (I), (II), and (III) for which no action has been taken, the period during which each item has remained on such

inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction;

(VII)

identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b);

(VIII)

contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers;

(IX)

identify areas of the tax law that impose significant compliance burdens on taxpayers or the Internal Revenue Service, including specific recommendations for remedying these problems;

(X)

identify the 10 most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes; and

(XI)

include such other information as the National Taxpayer Advocate may deem advisable.

(iii) Report to be submitted directly

Each report required under this subparagraph shall be provided directly to the committees described in clause (i) without any prior review or comment from the Commissioner, the Secretary of the Treasury, the Oversight Board, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

(iv) Coordination with report of Treasury Inspector General for Tax Administration

To the extent that information required to be reported under clause (ii) is also required to be reported under paragraph (1) or (2) of subsection (d) by the Treasury Inspector General for Tax Administration, the National Taxpayer

Advocate shall not contain such information in the report submitted under such clause.

(C) Other responsibilities

The National Taxpayer Advocate shall -

(i)

monitor the coverage and geographic allocation of local offices of taxpayer advocates;

(ii)

develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to local offices of taxpayer advocates;

(iii)

ensure that the local telephone number for each local office of the taxpayer advocate is published and available to taxpayers served by the office; and

(iv)

in conjunction with the Commissioner, develop career paths for local taxpayer advocates choosing to make a career in the Office of the Taxpayer Advocate.

(D) Personnel actions

(i) In general

The National Taxpayer Advocate shall have the responsibility and authority to -

(I)

appoint local taxpayer advocates and make available at least 1 such advocate for each State; and

(II)

evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of a taxpayer advocate described in subclause (I).

(ii) Consultation

The National Taxpayer Advocate may consult with the appropriate supervisory personnel of the Internal Revenue Service in carrying out the National Taxpayer Advocate's responsibilities

under this subparagraph.

(3) Responsibilities of Commissioner

The Commissioner shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the National Taxpayer Advocate within 3 months after submission to the Commissioner.

(4) Operation of local offices

(A) In general

Each local taxpayer advocate -

(i)

shall report to the National Taxpayer Advocate or delegate thereof;

(ii)

may consult with the appropriate supervisory personnel of the Internal Revenue Service regarding the daily operation of the local office of the taxpayer advocate;

(iii)

shall, at the initial meeting with any taxpayer seeking the assistance of a local office of the taxpayer advocate, notify such taxpayer that the taxpayer advocate offices operate independently of any other Internal Revenue Service office and report directly to Congress through the National Taxpayer Advocate; and

(iv)

may, at the taxpayer advocate's discretion, not disclose to the Internal Revenue Service contact with, or information provided by, such taxpayer.

(B) Maintenance of independent communications

Each local office of the taxpayer advocate shall maintain a separate phone, facsimile, and other electronic communication access, and a separate post office address.

(d) Additional duties' of the Treasury Inspector General for Tax Administration

(1) Annual reporting

The Treasury Inspector General for Tax Administration shall include in one of the semiannual

reports under section 5 of the Inspector General Act of 1978 -

(A)

an evaluation of the compliance of the Internal Revenue Service with -

(i)

restrictions under section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998 on the use of enforcement statistics to evaluate Internal Revenue Service employees;

(ii)

restrictions under section 7521 on directly contacting taxpayers who have indicated that they prefer their representatives be contacted;

(iii)

required procedures under section 6320 upon the filing of a notice of a lien;

(iv)

required procedures under subchapter D of chapter 64 for seizure of property for collection of taxes, including required procedures under section 6330 regarding levies; and

(v)

restrictions under section 3707 of the Internal Revenue Service Restructuring and Reform Act of 1998 on designation of taxpayers;

(B)

a review and a certification of whether or not the Secretary is complying with the requirements of section 6103(e)(8) to disclose information to an individual filing a joint return on collection activity involving the other individual filing the return;

(C)

information regarding extensions of the statute of limitations for assessment and collection of tax under section 6501 and the provision of notice to taxpayers regarding requests for such extension;

(D)

an evaluation of the adequacy and security of the technology of the Internal Revenue Service;

(E)

any termination or mitigation under section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998;

(F)

information regarding improper denial of requests for information from the Internal Revenue Service identified under paragraph (3)(A); and

(G)

information regarding any administrative or civil actions with respect to violations of the fair debt collection provisions of section 6304, including -

(i)

a summary of such actions initiated since the date of the last report; and

(ii)

a summary of any judgments or awards granted as a result of such actions.

(2) Semiannual reports

(A) In general. -

The Treasury Inspector General for Tax Administration shall include in each semiannual report under section 5 of the Inspector General Act of 1978 -

(i)

the number of taxpayer complaints during the reporting period;

(ii)

the number of employee misconduct and taxpayer abuse allegations received by the Internal Revenue Service or the Inspector General during the period from taxpayers, Internal Revenue Service employees, and other sources;

(iii)

a summary of the status of such complaints and allegations; and

(iv)

a summary of the disposition of such complaints and allegations, including the outcome of any Department of Justice action and any monies paid as a settlement of such complaints and allegations.

(B)

Clauses (iii) and (iv) of subparagraph (A) shall only apply to complaints and allegations of serious employee misconduct.

(3) Other responsibilities

The Treasury Inspector General for Tax Administration shall -

(A)

conduct periodic audits of a statistically valid sample of the total number of determinations made by the Internal Revenue Service to deny written requests to disclose information to taxpayers on the basis of section 6103 of this title or section 552(b) (7) of title 5, United States Code; and

(B)

establish and maintain a toll-free telephone number for taxpayers to use to confidentially register complaints of misconduct by Internal Revenue Service employees and incorporate the telephone number in the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1)



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Parallel authorities for 26 USC 7803 (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 7803).

LII

legal information institute

US CODE COLLECTION

collection home

TITLE 26 > Subtitle F > CHAPTER 64 > Subchapter C > PART II > Sec. 6321.

Sec. 6321. - Lien for taxes

If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax, or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person



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Parallel authorities for 26 USC 6321 (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](#)

[Code of Federal Regulations]
 [Title 26, Volume 17]
 [Revised as of April 1, 2001]
 From the U.S. Government Printing Office via GPO Access
 [CITE: 26CFR301.6330-1T]

[Page 257-267]

TITLE 26--INTERNAL REVENUE

CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY--
 (Continued)

In General

Sec. 301.6330-1T Notice and opportunity for hearing prior to levy (temporary).

(a) Notification--(1) In general. Except as specified in paragraph (a)(2) of this section, the district directors, directors of service centers, and the Assistant Commissioner (International), or their successors, are required to provide persons upon whose property or rights to property the IRS intends to levy on or after January 19, 1999, notice of that intention and to give them the right to, and the opportunity for, a pre-levy Collection Due Process hearing (CDP hearing) with the Internal Revenue Service Office of Appeals (Appeals). This Collection Due Process Hearing Notice (CDP Notice) must be given in person, left at the dwelling or usual place of business of such person, or sent by certified or registered mail, return receipt requested, to such person's last known address. For further guidance regarding the definition of last known address, see Sec. 301.6212-2.

(2) Exceptions--(i) State tax refunds. Section 6330 does not require the IRS to provide the taxpayer a notification of the taxpayer's right to a CDP hearing prior to issuing a levy to collect State tax refunds owing to the taxpayer. However, the district director, the service center director, and the Assistant Commissioner (International), or their successors, are required to give notice of the right to, and the opportunity for, a CDP hearing with Appeals with respect to the tax liability for the tax period for which the levy on the State tax refund was made on or after January 19, 1999, within a reasonable time after the levy has occurred. The notification required to be given following a levy on a State tax refund is referred to as a post-levy CDP Notice.

(ii) Jeopardy. Section 6330 does not require the IRS to provide the taxpayer a notification of the taxpayer's right to a CDP hearing prior to levy when there has been a determination that collection of the tax is in jeopardy. However, the district director, the service center director, and the Assistant Commissioner (International), or their successors, are required to provide notice of the right to, and the opportunity for, a CDP hearing with Appeals to the taxpayer with respect to any such levy issued on or after January 19, 1999, within a reasonable time after the levy has occurred. The notification required to be given following a jeopardy levy is also referred to as post-levy CDP Notice.

(3) Questions and answers. The questions and answers illustrate the provisions of this paragraph (a) as follows:

Q-A1. Who is the "person" to be notified under section 6330? A-A1. Under section 6330(a)(1), a pre-levy or post-levy CDP Notice is only required to be given to the person whose property or right to property is intended to be levied upon, or, in the case of a levy made on a State tax refund or in the case of a jeopardy levy, the person whose property or right to property was levied upon. The person described in section 6330(a)(1) is the same person described in section 6331(a). Pursuant to section 6331(a), notice is to be given to the person liable to pay the tax due after notice and demand who refuses or neglects to pay

(hereinafter referred to as the taxpayer).

Q-A2. Will the IRS notify a known nominee of, a person holding property

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of, or a person who holds property subject to a lien with respect to the taxpayer of its intention to issue a levy?

A-A2. No. Such a person is not the person described in section 6331(a), but such persons have other remedies. See A-B5 of this paragraph (a)(3).

Q-A3. Will the IRS give notification for each tax and tax period it intends to include or has included in a levy issued on or after January 19, 1999?

A-A3. Yes. The notification of intent to levy or of the issuance of a jeopardy or State tax refund levy will specify each tax and tax period that will be or was included in the levy.

Q-A4. Will the IRS give notification to a taxpayer with respect to levies for a tax and tax period issued on or after January 19, 1999, even though the IRS had issued a levy prior to January 19, 1999, with respect to the same tax and tax period?

A-A4. Yes. The IRS will provide appropriate pre-levy or post-levy notification to a taxpayer regarding the first levy it intends to issue or has issued on or after January 19, 1999, with respect to a tax and tax period, even though it had issued a levy with respect to that same tax and tax period prior to January 19, 1999.

Q-A5. When will the IRS provide this notice?

A-A5. Pursuant to section 6330(a)(1), beginning January 19, 1999, the IRS will give a pre-levy CDP Notice to the taxpayer of its intent to levy on property or rights to property, other than State tax refunds and in jeopardy levy situations, at least 30 days prior to the first such levy with respect to a tax and tax period. If the taxpayer has not received a pre-levy CDP Notice and the IRS levies on a State tax refund or issues a jeopardy levy on or after January 19, 1999, the IRS will provide a post-levy CDP Notice to the taxpayer within a reasonable time after that levy.

Q-A6. What must the pre-levy CDP Notice include?

A-A6. Pursuant to section 6330(a)(3), the notification must include, in simple and nontechnical terms:

- (i) The amount of the unpaid tax.
- (ii) Notification of the right to a hearing.
- (iii) A statement that the IRS intends to levy.
- (iv) The taxpayers's rights with respect to the levy action, including a brief statement that sets forth--

- (A) The statutory provisions relating to the levy and sale of property;
- (B) The procedure applicable to the levy and sale of property;
- (C) The administrative appeals available to the taxpayer with respect to levy and sale and the procedures relating to those appeals;
- (D) The alternatives available to taxpayers that could prevent levy on the property (including installment agreements);
- (E) The statutory provisions relating to redemption of property and the release of liens on property; and
- (F) The procedures applicable to the redemption of property and the release of liens on property.

Q-A7. What must the post-levy CDP Notice include?

A-A7. Pursuant to section 6330(a)(3), the notification must include, in simple and nontechnical terms:

- (i) The amount of the unpaid tax.
- (ii) Notification of the right to a hearing.
- (iii) A statement that the IRS has levied upon the taxpayer's State tax refund or has made a jeopardy levy on property or rights to property of the taxpayer, as appropriate.
- (iv) The taxpayer's rights with respect to the levy action,

including a brief statement that sets forth--

- (A) The statutory provisions relating to the levy and sale of property;
- (B) The procedures applicable to the levy and sale of property;
- (C) The administrative appeals available to the taxpayer with respect to levy and sale and the procedures relating to those appeals;
- (D) The alternatives available to taxpayers that could prevent any further levies on the taxpayer's property (including installment agreements);
- (E) The statutory provisions relating to redemption of property and the release of liens on property; and
- (F) The procedures applicable to the redemption of property and the release of liens on property.

Q-A8. How will this pre-levy or post-levy notification be accomplished?

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A-A8. (i) The IRS will notify the taxpayer by means of a pre-levy CDP Notice or a post-levy CDP Notice, as appropriate. The additional information IRS is required to provide, together with Form 12153, Request for a Collection Due Process Hearing, will be included with that Notice. The IRS may effect delivery of a pre-levy CDP Notice (and accompanying materials) in one of three ways:

- (A) By delivering the notice personally to the taxpayer.
- (B) By leaving the notice at the taxpayer's dwelling or usual place of business.
- (C) By mailing the notice to the taxpayer at the taxpayer's last known address by certified or registered mail, return receipt requested.

(ii) The IRS may effect delivery of a post-levy CDP Notice (and accompanying materials) in one of three ways:

- (A) By delivering the notice personally to the taxpayer.
- (B) By leaving the notice at the taxpayer's dwelling or usual place of business.
- (C) By mailing the notice to the taxpayer at the taxpayer's last known address by certified or registered mail.

Q-A9. What are the consequences if the taxpayer does not receive or accept the notification which was properly left at the taxpayer's dwelling or usual place of business, or properly sent by certified or registered mail, return receipt requested, to the taxpayer's last known address?

A-A9. Notification properly sent to the taxpayer's last known address or left at the taxpayer's dwelling or usual place of business is sufficient to start the 30-day period within which the taxpayer may request a CDP hearing. Actual receipt is not a prerequisite to the validity of the notice.

Q-A10. What if the taxpayer does not receive the CDP Notice because the IRS did not send that notice by certified or registered mail to the taxpayer's last known address, or failed to leave it at the dwelling or usual place of business of the taxpayer, and the taxpayer fails to request a CDP hearing with Appeals within the 30-day period commencing the day after the date of the CDP Notice?

A-A10. When the IRS determines that it failed properly to provide a taxpayer with a CDP Notice, it will promptly provide the taxpayer with a substitute CDP Notice and provide the taxpayer with an opportunity to request a CDP hearing.

(4) Examples. The following examples illustrate the principles of this paragraph (a):

Example 1. Prior to January 19, 1999, the IRS issues a continuous levy on a taxpayer's wages and a levy on that taxpayer's fixed right to future payments. The IRS is not required to release either levy on or after January 19, 1999, until the requirements of section 6343(a)(1) are met. The taxpayer is not entitled to a CDP Notice or a CDP hearing under

section 6330 with respect to either levy because both levy actions were initiated prior to January 19, 1999.

Example 2. The same facts as in Example 1, except the IRS intends to levy upon a taxpayer's bank account on or after January 19, 1999. The taxpayer is entitled to a pre-levy CDP Notice with respect to this proposed new levy.

(b) Entitlement to a CDP hearing--(1) In general. A taxpayer is entitled to one CDP hearing with respect to the tax and tax period covered by the pre-levy or post-levy CDP Notice provided the taxpayer. The taxpayer must request such a hearing within the 30-day period commencing on the day after the date of the CDP Notice.

(2) Questions and answers. The questions and answers illustrate the provisions of this paragraph (b) as follows:

Q-B1. Is the taxpayer entitled to a CDP hearing where a levy for State tax refunds is served on or after January 19, 1999, even though the IRS had previously served other levies prior to January 19, 1999, seeking to collect the taxes owed for the same period?

A-B1. Yes. The taxpayer is entitled to a CDP hearing under section 6330 for the tax and tax period set forth in such a levy issued on or after January 19, 1999.

Q-B2. Is the taxpayer entitled to a CDP hearing when the IRS, more than 30 days after issuance of a CDP Notice with respect to a tax period, provides subsequent notice to that taxpayer that it intends to levy on property or rights to property of the taxpayer for the same tax and tax period shown on the CDP Notice?

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A-B2. No. Under section 6330, only the first pre-levy or post-levy Notice with respect to liabilities for a tax and tax period constitutes a CDP Notice. If the taxpayer does not timely request a CDP hearing with Appeals following that first notification, the taxpayer foregoes the right to a CDP hearing with Appeals and judicial review of Appeals's determination with respect to collection activity relating to that tax and tax period. The IRS generally provides additional notices or reminders (reminder notifications) to the taxpayer of its intent to levy when no collection action has occurred within 180 days of a proposed levy. Under such circumstances a taxpayer, however, may request an equivalent hearing as described in paragraph (i) of this section.

Q-B3. When the IRS provides a taxpayer with a substitute CDP Notice and the taxpayer timely requests a CDP hearing, is the taxpayer entitled to a CDP Hearing before Appeals?

A-B3. Yes. Unless the taxpayer provides the IRS a written withdrawal of the request that Appeals conduct a CDP hearing, the taxpayer is entitled to a CDP hearing before Appeals. Following the hearing, Appeals will issue a Notice of Determination, and the taxpayer is entitled to seek judicial review of that Notice of Determination.

Q-B4. If the IRS sends a second CDP Notice under section 6330 (other than a substitute CDP Notice) for a tax period and with respect to an amount of unpaid tax for which a section 6330 CDP Notice was previously sent, is the taxpayer entitled to a second section 6330 CDP hearing?

A-B4. No. The taxpayer is entitled to only one CDP hearing under section 6330 with respect to the tax and tax period. The taxpayer must request the CDP hearing within 30 days of the date of the first CDP Notice provided for that tax and tax period.

Q-B5. Will the IRS give pre-levy or post-levy CDP Notices to known nominees of, persons holding property of, or persons holding property subject to a lien with respect to the taxpayer?

A-B5. No. Such person is not the person described in section 6331(a) and is, therefore, not entitled to a CDP hearing or an equivalent hearing (as discussed in paragraph (i) of this section). Such person, however, may seek reconsideration by the IRS office collecting the tax, assistance from the National Taxpayer Advocate, or an administrative

hearing before Appeals under its Collection Appeals Program. However, any such administrative hearing would not be a CDP hearing under section 6330 and any determination or decision resulting from the hearing would not be subject to judicial review.

(c) Requesting a CDP hearing--(1) In general. Where a taxpayer is entitled to a CDP hearing under section 6330, such a hearing must be requested during the 30-day period that commences that day after the date of the CDP Notice.

(2) Questions and answers. The questions and answers illustrate the provisions of this paragraph (c) as follows:

Q-C1. What must a taxpayer do to obtain a CDP hearing?

A-C1. (i) The taxpayer must make a request in writing for a CDP hearing. A written request in any form which requests a CDP hearing will be acceptable. The request must include the taxpayer's name, address, and daytime telephone number, and must be signed by the taxpayer or the taxpayer's authorized representative and dated. Included with the CDP Notice will be a Form 12153, Request for a Collection Due Process Hearing, that can be used by the taxpayer in requesting a CDP hearing. The Form 12153 requests the following information:

(A) The taxpayer's name, address, daytime telephone number, and taxpayer identification number (SSN or TIN).

(B) The type of tax involved.

(C) The tax period at issue.

(D) A statement that the taxpayer requests a hearing with Appeals concerning the proposed collection activity.

(E) The reason or reasons why the taxpayer disagrees with the proposed collection action.

(ii) Taxpayers are encouraged to use a Form 12153 in requesting a CDP hearing so that such a request can be readily identified and forwarded to Appeals. Taxpayers may obtain a copy of Form 12153 by contacting the IRS office that issued the CDP Notice or by calling, toll free, 1-800-829-3676.

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Q-C2. Must the request for the CDP hearing be in writing?

A-C2. Yes. There are several reasons why the request for a CDP hearing must be in writing. First, the filing of a timely request for a CDP hearing is the first step in what may result in a court proceeding. A written request will provide proof that the CDP hearing was requested and thus permit the court to verify that it has jurisdiction over any subsequent appeal of the Notice of Determination issued by Appeals. In addition, the receipt of the written request will establish the date on which the periods of limitation under section 6502 (relating to collection after assessment), section 6531 (relating to criminal prosecutions), and section 6532 (relating to suits) are suspended as a result of the CDP hearing and any judicial appeal. Moreover, because the IRS anticipates that taxpayers will contact the IRS office that issued the CDP Notice for further information, for help in filling out Form 12153, or in an attempt to resolve their liabilities prior to going through the CDP hearing process, the requirement of a written request should help to prevent any misunderstanding as to whether a CDP hearing has been requested. If the information requested on Form 12153 is furnished by the taxpayer, the written request will also help to establish the issues for which the taxpayer seeks a determination by Appeals.

Q-C3. When must a taxpayer request a CDP hearing with respect to a CDP Notice issued under section 6330?

A-C3. A taxpayer must submit a written request for a CDP hearing with respect to a CDP Notice issued under section 6330 within the 30-day period commencing the day after the date of the CDP Notice. This period is slightly different from the period allowed taxpayers to submit a written request for a CDP hearing with respect to a CDP Notice issued under section 6320. For a CDP Notice issued under section 6320, a

taxpayer must submit a written request for a CDP hearing within the 30-day period commencing the day after the end of the five business day period following the filing of the notice of federal tax lien (NFTL).

Q-C4. How will the timeliness of a taxpayer's written request for a CDP hearing be determined?

A-C4. The rules under section 7502 and the regulations thereunder and section 7503 and the regulations thereunder will apply to determine the timeliness of the taxpayer's request for a CDP hearing, if properly transmitted and addressed as provided in A-C6 of this paragraph (c)(2).

Q-C5. Is the 30-day period within which a taxpayer must make a request for a CDP hearing extended because the taxpayer resides outside the United States?

A-C5. No. Section 6330 does not make provision for such a circumstance. Accordingly, all taxpayers who want a CDP hearing under section 6330 must request such a hearing within the 30-day period commencing the day after the date of the CDP Notice.

Q-C6. Where should the written request for a CDP hearing be sent?

A-C6. The written request for a CDP hearing should be filed with the IRS office that issued the CDP Notice at the address indicated on the CDP Notice. If the address of that office is not known, the request may be sent to the District Director serving the district of the taxpayer's residence or principal place of business. If the taxpayer does not have a residence or principal place of business in the United States, the request may be sent to the Director, Philadelphia Service Center.

Q-C7. What will happen if the taxpayer does not request a section 6330 CDP hearing in writing within the 30-day period commencing on the day after the date of the CDP Notice?

A-C7. If the taxpayer does not request a CDP hearing with Appeals within the 30-day period commencing the day after the date of the CDP Notice, the taxpayer will forego the right to a CDP hearing under section 6330 with respect to the tax and tax period or periods shown on the CDP Notice. In addition, the IRS will be free to pursue collection action at the conclusion of the 30-day period following the date of the CDP Notice. The taxpayer may, however, request an equivalent hearing. See paragraph (i) of this section.

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Q-C8. When must a taxpayer request a CDP hearing with respect to a substitute CDP Notice?

A-C8. A CDP hearing with respect to a substitute CDP Notice must be requested in writing by the taxpayer prior to the end of the 30-day period commencing the day after the date of the substitute CDP Notice.

Q-C9. Can taxpayers attempt to resolve the matter of the proposed levy with an officer or employee of the IRS office collecting the tax liability stated on the CDP Notice either before or after requesting a CDP hearing?

A-C9. Yes. Taxpayers are encouraged to discuss their concerns with the IRS office collecting the tax, either before or after they request a CDP hearing. If such a discussion occurs before a request is made for a CDP hearing, the matter may be resolved without the need for Appeals consideration. However, these discussions do not suspend the running of the 30-day period within which the taxpayer is required to request a CDP hearing, nor do they extend that 30-day period. If discussions occur after the request for a CDP hearing is filed and the taxpayer resolves the matter with the IRS office collecting the tax, the taxpayer may withdraw in writing the request that a CDP hearing be conducted by Appeals. The taxpayer can also waive in writing some or all of the requirements regarding the contents of the Notice of Determination.

(d) Conduct of CDP hearing--(1) In general. If a taxpayer requests a CDP hearing under section 6330(a)(3)(B) (and does not withdraw that request), the CDP hearing will be held with Appeals. The taxpayer is entitled to only one CDP hearing under section 6330 with respect to the tax and tax period or periods shown on the CDP Notice. To the extent

practicable, the CDP hearing requested under section 6330 will be held in conjunction with any CDP hearing the taxpayer requests under section 6320. A CDP hearing will be conducted by an employee or officer of Appeals who has had no involvement with respect to the tax for the tax period or periods covered by the hearing prior to the first CDP hearing under section 6320 or section 6330, unless the taxpayer waives that requirement.

(2) Questions and answers. The questions and answers illustrate the provisions of this paragraph (d) as follows:

Q-D1. Under what circumstances can a taxpayer receive more than one CDP hearing with respect to a tax period?

A-D1. The taxpayer may receive more than one CDP hearing with respect to a tax period where the tax involved is a different type of tax (for example, an employment tax liability, where the original CDP hearing for the tax period involved an income tax liability), or where the same type of tax for the same period is involved, but where the amount of the tax has changed as a result of an additional assessment of tax for that period or an additional accuracy-related or filing delinquency penalty has been assessed. The taxpayer is not entitled to another CDP hearing if the additional assessment represents accruals of interest or accruals of penalties.

Q-D2. Will a CDP hearing with respect to one tax period be combined with a CDP hearing with respect to another tax period?

A-D2. To the extent practicable, a hearing with respect to one tax period shown on a CDP Notice will be combined with any and all other hearings to which the taxpayer may be entitled with respect to other tax periods shown on the CDP Notice.

Q-D3. Will a CDP hearing under section 6330 be combined with a CDP hearing under section 6320?

A-D3. To the extent it is practicable, a CDP hearing under section 6330 will be held in conjunction with a CDP hearing under section 6320.

Q-D4. What is considered to be prior involvement by an employee or officer of Appeals with respect to the tax and tax period or periods involved in the hearing?

A-D4. Prior involvement by an employee or officer of Appeals includes participation or involvement in an Appeals hearing (other than a CDP hearing held under either section 6320 or section 6330) that the taxpayer may have had with respect to the tax and tax period shown on the CDP Notice.

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Q-D5. How can a taxpayer waive the requirement that the officer or employee of Appeals had no prior involvement with respect to the tax and tax period or periods?

A-D5. The taxpayer must sign a written waiver.

(e) Matters considered at CDP hearing--(1) In general. Appeals has the authority to determine the validity, sufficiency, and timeliness of any CDP Notice given by the IRS and of any request for a CDP hearing that is made by a taxpayer. Prior to issuance of a determination, the hearing officer is required to obtain verification from the IRS office collecting the tax that the requirements of any applicable law or administrative procedure have been met. The taxpayer may raise any relevant issue relating to the unpaid tax at the hearing, including appropriate spousal defenses, challenges to the appropriateness of the proposed collection action, and offers of collection alternatives. The taxpayer also may raise challenges to the existence or amount of the tax liability for any tax period shown on the CDP Notice if the taxpayer did not receive a statutory notice of deficiency for that tax liability or did not otherwise have an opportunity to dispute that tax liability. Finally, the taxpayer may not raise an issue that was raised and considered at a previous CDP hearing under section 6320 or in any other previous administrative or judicial proceeding if the taxpayer participated meaningfully in such hearing or proceeding. Taxpayers will

be expected to provide all relevant information requested by Appeals, including financial statements, for its consideration of the facts and issues involved in the hearing.

(2) Spousal defenses. A taxpayer may raise any appropriate spousal defenses at a CDP hearing. To claim a spousal defense under section 6015, the taxpayer must do so in writing according to rules prescribed by the Secretary. Spousal defenses raised under section 6015 in a CDP hearing are governed in all respects by the provisions of section 6015 and the procedures prescribed by the Secretary thereunder.

(3) Questions and answers. The questions and answers illustrate the provisions of this paragraph (e) as follows:

Q-E1. What factors will Appeals consider in making its determination?

A-E1. Appeals will consider the following matters in making its determination:

(i) Whether the IRS met the requirements of any applicable law or administrative procedure.

(ii) Any issues appropriately raised by the taxpayer relating to the unpaid tax.

(iii) Any appropriate spousal defenses raised by the taxpayer.

(iv) Any challenges made by the taxpayer to the appropriateness of the proposed collection action.

(v) Any offers by the taxpayer for collection alternatives.

(vi) Whether the proposed collection action balances the need for the efficient collection of taxes and the legitimate concern of the taxpayer that any collection action be no more intrusive than necessary.

Q-E2. When is a taxpayer entitled to challenge the existence or amount of the tax liability specified in the CDP Notice?

A-E2. A taxpayer is entitled to challenge the existence or amount of the tax liability specified in the CDP Notice if the taxpayer did not receive a statutory notice of deficiency for such liability or did not otherwise have an opportunity to dispute such liability. Receipt of a statutory notice of deficiency for this purpose means receipt in time to petition the Tax Court for a redetermination of the deficiency asserted in the notice of deficiency. An opportunity to dispute a liability includes a prior opportunity for a conference with Appeals that was offered either before or after the assessment of the liability.

Q-E3. Are spousal defenses subject to the limitations imposed under section 6330(c)(2)(B) on a taxpayer's right to challenge the tax liability specified in the CDP Notice at a CDP hearing?

A-E3. No. The limitations imposed under section 6330(c)(2)(B) do not apply to spousal defenses. A spousal defense raised under section 6015 is governed by that section; therefore any limitations under section 6015 will apply.

Q-E4. May a taxpayer raise at a CDP hearing a spousal defense under section

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6015 if that defense was raised and considered in a prior judicial proceeding that has become final?

A-E4. No. A taxpayer is precluded by limitations under section 6015 from raising a spousal defense under section 6015 in a CDP hearing under these circumstances.

Q-E5. What collection alternatives are available to the taxpayer?

A-E5. Collection alternatives would include, for example, a proposal to withhold the proposed, or future collection action in circumstances that will facilitate the collection of the tax liability, an installment agreement, an offer-in-compromise, the posting of a bond, or the substitution of other assets.

Q-E6. What issues may a taxpayer raise in a CDP hearing under section 6330 if he previously received a notice under section 6320 with respect to the same tax and tax period and did not request a CDP hearing with respect to that notice?

A-E6. The taxpayer may raise appropriate spousal defenses, challenges to the appropriateness of the proposed collection action, and offers of collection alternatives. The existence or amount of the tax liability for the tax for the tax period shown in the CDP Notice may be challenged only if the taxpayer did not already have an opportunity to dispute that tax liability. Where the taxpayer previously received a CDP Notice under section 6320 with respect to the same tax and tax period and did not request a CDP hearing with respect to that earlier CDP Notice, the taxpayer already had an opportunity to dispute the existence or amount of the underlying tax liability.

Q-E7. How will Appeals issue its determination?

A-E7. (i) Taxpayers will be sent a dated Notice of Determination by certified or registered mail. The Notice of Determination will set forth Appeals's findings and decisions:

(A) It will state whether the IRS met the requirements of any applicable law or administrative procedure.

(B) It will resolve any issues appropriately raised by the taxpayer relating to the unpaid tax.

(C) It will include a decision on any appropriate spousal defenses raised by the taxpayer.

(D) It will include a decision on any challenges made by the taxpayer to the appropriateness of the collection action.

(E) It will respond to any offers by the taxpayer for collection alternatives.

(F) It will address whether the proposed collection action represents a balance between the need for the efficient collection of taxes and the legitimate concern of the taxpayer that any collection action be no more intrusive than necessary.

(ii) The Notice of Determination will also set forth any agreements that Appeals reached with the taxpayer, any relief given the taxpayer, and any actions the taxpayer and/or the IRS are required to take. Lastly, the Notice of Determination will advise the taxpayer of his right to seek judicial review within 30 days of the date of the Notice of Determination.

(iii) Because taxpayers are encouraged to discuss their concerns with the IRS office collecting the tax or filing the NFTL, certain matters that might have been raised at a CDP hearing may be resolved without the need for Appeals consideration. Unless as a result of these discussions, the taxpayer agrees in writing to withdraw the request that Appeals conduct a CDP hearing, Appeals will still issue a Notice of Determination, but the taxpayer can waive in writing Appeals's consideration of some or all of the matters it would otherwise consider in making its determination.

Q-E8. Is there a time limit on the CDP hearings or on when Appeals must issue a Notice of Determination?

A-E8. No. Appeals will, however, attempt to conduct CDP hearings as expeditiously as possible.

Q-E9. Why is the Notice of Determination and its date important?

A-E9. The Notice of Determination will set forth Appeals's findings and decisions with respect to the matters set forth in A-E1 of this paragraph (e)(3). The date of the Notice of Determination establishes the beginning date of

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the 30-day period within which the taxpayer is permitted to seek judicial review of Appeals's determination.

(4) Examples. The following examples illustrate the principles of this paragraph (e).

Example 1. The IRS sends a statutory notice of deficiency to the taxpayer at his last known address asserting a deficiency for the tax year 1995. The taxpayer receives the notice of deficiency in time to petition the Tax Court for a redetermination of the asserted deficiency.

The taxpayer does not timely file a petition with the Tax Court. The taxpayer is therefore precluded from challenging the existence or amount of the tax liability in a subsequent CDP hearing.

Example 2. Same facts as in Example 1, except the taxpayer does not receive the notice of deficiency in time to petition the Tax Court. The taxpayer is not, therefore, precluded from challenging the existence or amount of the tax liability in a subsequent CDP hearing.

Example 3. The IRS properly assesses a trust fund recovery penalty against the taxpayer. The IRS offers the taxpayer the opportunity for a conference at which the taxpayer would have the opportunity to dispute the assessed liability. The taxpayer declines the opportunity to participate in such a conference. The taxpayer is precluded from challenging the existence or amount of the tax liability in a subsequent CDP hearing.

(f) Judicial review of Notice of Determination--(1) In general. Unless the taxpayer provides the IRS a written withdrawal of the request that Appeals conduct a CDP hearing, Appeals is required to issue a Notice of Determination in all cases where a taxpayer has timely requested a CDP hearing. The taxpayer may appeal such determinations made by Appeals within 30 days after the date of the Notice of Determination to the Tax Court or a district court of the United States, as appropriate.

(2) Questions and answers. The questions and answers illustrate the provisions of this paragraph (f) as follows:

Q-F1. What must a taxpayer do to obtain judicial review of a Notice of Determination?

A-F1. Subject to the jurisdictional limitations described in A-F2 of this paragraph (f) (2), the taxpayer must, within the 30-day period commencing the day after the date of the Notice of Determination, appeal Appeals's determination to the Tax Court or to a district court of the United States.

Q-F2. With respect to the relief available to the taxpayer under section 6015(b) or (c), what is the time frame within which a taxpayer may seek Tax Court review of Appeals's determination following a CDP hearing?

A-F2. If the taxpayer seeks Tax Court review not only of Appeals's denial of relief under section 6015(b) or (c), but also of relief with respect to other issues raised in the CDP hearing, the taxpayer should request Tax Court review within the 30-day period commencing the day after the date of the Notice of Determination. If the taxpayer only wants Tax Court review of Appeals's denial of relief under section 6015(b) or (c), the taxpayer should request review by the Tax Court, as provided by section 6015(e), within 90 days of Appeals's determination. If a request for Tax Court review is filed after the 30-day period for seeking judicial review under section 6330, then only the taxpayer's section 6015(b) or (c) claims may be reviewable by the Tax Court.

Q-F3. Where should a taxpayer direct a request for judicial review of a Notice of Determination?

A-F3. If the Tax Court would have jurisdiction over the type of tax specified in the CDP Notice (for example, income and estate taxes), then the taxpayer must seek judicial review by the Tax Court. If the tax liability arises from a type of tax over which the Tax Court would not have jurisdiction, then the taxpayer must seek judicial review by a district court of the United States in accordance with Title 28 of the United States Code.

Q-F4. What happens if the taxpayer timely appeals Appeals's determination to the incorrect court?

A-F4. If the court to which the taxpayer directed a timely appeal of the Notice of Determination determines that the appeal was to the incorrect court (because of jurisdictional, venue or other reasons), the taxpayer will have 30 days after the court's determination to that effect within which to file an appeal to the correct court.

Q-F5. What issue or issues may the taxpayer raise before the Tax

Court or before a district court if the taxpayer

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disagrees with the Notice of Determination?

A-F5. In seeking Tax Court or district court review of Appeals's Notice of Determination, the taxpayer can only ask the court to consider an issue that was raised in the taxpayer's CDP hearing.

(g) Effect of request for CDP hearing and judicial review on periods of limitation--(1) In general. The periods of limitation under section 6502 (relating to collection after assessment), section 6531 (relating to criminal prosecutions), and section 6532 (relating to suits) are suspended until the date the IRS receives the taxpayer's written withdrawal of the request for a CDP hearing by Appeals or the determination resulting from the CDP hearing becomes final by expiration of the time for seeking review or reconsideration. In no event shall any of these periods of limitation expire before the 90th day after the date on which the determination with respect to such hearing becomes final upon expiration of the time for seeking review or reconsideration.

(2) Questions and answers. The questions and answers illustrate the provisions of this paragraph (g) as follows:

Q-G1. For what period of time will the periods of limitation under section 6502, section 6531, and section 6532 remain suspended if the taxpayer timely requests a CDP hearing concerning a pre-levy or post-levy CDP Notice?

A-G1. The suspension period commences on the date the IRS receives the taxpayer's written request for a CDP hearing. The suspension period continues until the IRS receives a written withdrawal by the taxpayer of the request for a CDP hearing or the determination resulting from the CDP hearing becomes final by expiration of the time for seeking its review or reconsideration. In no event shall any of these periods of limitation expire before the 90th day after the day on which there is a final determination with respect to such hearing. The periods of limitation that are suspended under section 6330 are those which apply to the taxes and the tax period or periods to which the CDP Notice relates.

Q-G2. For what period of time will the periods of limitation under section 6502, section 6531, and section 6532 be suspended if the taxpayer does not request a CDP hearing concerning the CDP Notice, or the taxpayer requests a CDP hearing, but his request is not timely?

A-G2. Under either of these circumstances, section 6330 does not provide for a suspension of the periods of limitation.

(3) Examples. The following examples illustrate the principles of this paragraph (g).

Example 1. The period of limitation under section 6502 with respect to the taxpayer's tax period listed in the CDP Notice will expire on August 1, 1999. The IRS sent a CDP Notice to the taxpayer on April 30, 1999. The taxpayer timely requested a CDP hearing. The IRS received this request on May 15, 1999. Appeals sends the taxpayer its determination on June 15, 1999. The taxpayer timely seeks judicial review of that determination. The period of limitation under section 6502 would be suspended from May 15, 1999, until the determination resulting from that hearing becomes final by expiration of the time for seeking review or reconsideration before the appropriate court, plus 90 days.

Example 2. Same facts as in Example 1, except the taxpayer does not seek judicial review of Appeals's determination. Because the taxpayer requested the CDP hearing when fewer than 90 days remained on the period of limitation, the period of limitation will be extended to October 13, 1999 (90 days from July 15, 1999).

(h) Retained jurisdiction of Appeals--(1) In general. The Appeals office that makes a determination under section 6330 retains jurisdiction over that determination, including any subsequent

administrative hearings that may be requested by the taxpayer regarding levies and any collection actions taken or proposed with respect to Appeals's determination. Once a taxpayer has exhausted his other remedies, Appeals's retained jurisdiction permits it to consider whether a change in the taxpayer's circumstances affects its original determination. Where a taxpayer alleges a change in circumstances that affects Appeals's original determination, Appeals may consider whether changed circumstances warrant a change in its earlier determination.

(2) Questions and answers. The questions and answers illustrate the provisions of this paragraph (h) as follows:

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Q-H1. Are the periods of limitation suspended during the course of any subsequent Appeals consideration of the matters raised by a taxpayer when the taxpayer invokes the retained jurisdiction of Appeals under section 6330(d)(2)(A) or (d)(2)(B)?

A-H1. No. Under section 6330(b)(2), a taxpayer is entitled to only one section 6330 CDP hearing with respect to the tax and tax period or periods to which the unpaid tax relates. Any subsequent consideration by Appeals pursuant to its retained jurisdiction is not a continuation of the original CDP hearing and does not suspend the periods of limitation.

Q-H2. Is a decision of Appeals resulting from a subsequent hearing appealable to the Tax Court or a district court?

A-H2. No. As discussed in A-H1, a taxpayer is entitled to only one section 6330 CDP hearing with respect to the tax and tax period or periods specified in the CDP Notice. Only determinations resulting from CDP hearings are appealable to the Tax Court or a district court.

(i) Equivalent hearing--(1) In general. A taxpayer who fails to make a timely request for a CDP hearing is not entitled to a CDP hearing. Such a taxpayer may nevertheless request an administrative hearing with Appeals, which is referred to herein as an "equivalent hearing." The equivalent hearing will be held by Appeals and will generally follow Appeals procedures for a CDP hearing. Appeals will not, however, issue a Notice of Determination. Under such circumstances, Appeals will issue a Decision Letter.

(2) Questions and answers. The questions and answers illustrate the provisions of this paragraph (i) as follows:

Q-I1. What issues will Appeals consider at an equivalent hearing?

A-I1. In an equivalent hearing, Appeals will consider the same issues that it would have considered at a CDP hearing on the same matter.

Q-I2. Are the periods of limitation under sections 6502, 6531, and 6532 suspended if the taxpayer does not timely request a CDP hearing and is subsequently given an equivalent hearing?

A-I2. No. The suspension period provided for in section 6330(e) relates only to hearings requested within the 30-day period that commences the day following the date of the pre-levy or post-levy CDP Notice, that is, CDP hearings.

Q-I3. Will collection action be suspended if a taxpayer requests and receives an equivalent hearing?

A-I3. Collection action is not required to be suspended. Accordingly, the decision to take collection action during the pendency of an equivalent hearing will be determined on a case-by-case basis. Appeals may request the IRS office with responsibility for collecting the taxes to suspend all or some collection action or to take other appropriate action if it determines that such action is appropriate or necessary under the circumstances.

Q-I4. What will the Decision Letter state?

A-I4. The Decision Letter will generally contain the same information as a Notice of Determination.

Q-I5. Will a taxpayer be able to obtain court review of a decision made by Appeals with respect to an equivalent hearing?

A-I5. Section 6330 does not authorize a taxpayer to appeal the

decision of Appeals with respect to an equivalent hearing. A taxpayer may under certain circumstances be able to seek Tax Court review of Appeals's denial of relief under section 6015(b) or (c). Such review must be sought within 90 days of the issuance of Appeals' determination on those issues, as provided by section 6015(e).

(j) Effective date. This section is applicable with respect to any levy which occurs on or after January 19, 1999, and before January 21, 2002.

[T.D. 8809, 64 FR 3407, Jan. 22, 1999, as amended by T.D. 8939, 66 FR 2821, Jan. 12, 2001]

Due Process for Collections

- A. The following page 96, Exhibit A, gives you some of the most important sections of title 26 USC on the left side. On the right side are the corresponding CFR sections.

- B. Just spend a little time studying this page then go to the “Parallel Table of Authorities Index” which is part of the CFR collection. Or you can look in the level three manual.

- C. The background to this is very simple. Are you an Officer of a government corporation or trust with a duty to report the funds you manage or do you have some kind of agreement with the government where you have signed a form such as a 637?
 - 1. If the IRS is already coming after you then the IRS will start changing your records and add incorrect codes into your files to put you into one of those entities.

- TITLE 26 - INTERNAL REVENUE CODE
 - Subtitle F - Procedure and Administration
 - CHAPTER 64 - COLLECTION
 - Subchapter D - Seizure of Property for Collection of Taxes

US Code as of: 01/05/99

Subchapter D - Seizure of Property for Collection of Taxes

- I. Due process for collections.
- II. Levy.

PART I - DUE PROCESS FOR COLLECTIONS

- § 6330. Notice and opportunity for hearing before levy.

CROSS: NO PARALLEL TABLE

PART II - LEVY

- § 6331. Levy and distraint.
- § 6332. Surrender of property subject to levy.
- § 6333. Production of books.
- § 6334. Property exempt from levy.

- § 6335. Sale of seized property.
- § 6336. Sale of perishable goods.
- § 6337. Redemption of property.
- § 6338. Certificate of sale; deed of real property.
- § 6339. Legal effect of certificate of sale of personal property and deed of real property.

- § 6340. Records of sale.
- § 6341. Expense of levy and sale.
- § 6342. Application of proceeds of levy.
- § 6343. Authority to release levy and return property.

- § 6344. Cross references.

CROSS: 27 CFR PART 70

CROSS: 27 CFR PART 70

CROSS: 27 CFR PART 70

CROSS: 26 CFR PART 404

CROSS: 27 CFR PART 70

CROSS: 27 CFR PART 70

CROSS: 27 CFR PART 70

CROSS: 27 CFR PART 70

CROSS: 27 CFR PART 70

CROSS: 27 CFR PART 70

CROSS: 27 CFR PART 70

CROSS: 27 CFR PART 70

CROSS: 27 CFR PART 70

CROSS: 26 CFR PART 301

CROSS: 27 CFR PART 70

CROSS: NO PARALLEL TABLE

Lien Indicator on a IMF or BMF

A. Have you been the victim of an IRS lien?

1. If you have your IMF, look at it to see if there is a Transaction Code 582 on it.
2. What does a 582 transaction code mean you might ask?
3. Go to Exhibit A, from the ADP, 6209 Manual section 8 page 32 and go to the 582 code, I/B, Lien Indicator. On this page in the column marked Valid Document Code we see “77.”
 - a. On the same line where the Transaction code 582 is located on your IMF, look at the Document Locator Number to the left of the 582 on that same line. Is the number “77” located in the 4th and 5th number position of the DLN?
 - b. Now read the Remarks section for transaction code 582.

Trans Code	DR/CR	File	Title	Valid Doc. Code	Remarks
576	Debit (P.J)	I	Unallowable Tax Hold	Generated Transaction	Generated by TC 150 with a Credit Balance and Unallowable Tax. Holds the Unallowable Tax to the extent of the Credit Balance in suspense. Freezes the amount of the TC 576 from refund and offset out. Resequence all Debit transactions including generated Doc. Code 34 debits and transfer in (TC 370) except TC 667 & 896. (This amount has not been assessed).
577	Credit (P.I)	I	Reversal of TC 576	Generated Transaction	Generated by TC 300, 571, 572 or TC 421 with Doc. Code 47 and Disposal Code 20-25, 27, 29, 31-33, 35 or 36. Restores TC 576 Unallowable Tax into the tax module and releases 576 hold.
582		I/B	Lien Indicator	77	Federal Tax Lien has been filed for this tax period. This transaction can represent two different types of liens; "Self-releasing" and "Re-filled". Each will have a unique indicator setting. On IMF this transaction is also used as a "2032A Indicator" and a Carry-over Basis Indicator. On BMF, used to post "2032A Election" (F706) or "2032A Helr" data (F1120, 1041, or 1065) or to post cross-reference SSN data (F720, Abstract no. 52). 1) Generated to post to the entity when an MFT 01/11 TC 150 is input with a significant "parent EIN" field. Use the DLN for the TC 582 being generated and include the "parent EIN" in the TC 582. 2) Generated to post the entity when a F1120/1120A/1120S/1041/1065 TC 582 posts to a tax module. Use the DLN of input TC 582 as the DLN for the TC 582 being generated.
583		I/B	Reverse Lien Indicator	77 or Generated Transaction	Reverses TC 582. Deletes Cross-Reference SSN (BMF only). TC 583s will be generated in the conversion run for those modules where the last CSED has expired and the first "lien only" TC 582 posted after cycle 8301 (BMF), or 8313 (IMF) (i.e. "Self-releasing" liens).
586		B	Transfer/revenue receipt cross.ref TIN	24, 48	Posts a cross reference TIN from a transfer on a revenue receipt transaction.
590		B//E	Satisfying Trans.	14, 49 or Generated Transaction	Not liable this tax period. Satisfies this module only Requires a two digit closing code for IDRS input. See Section 11 for appropriate closing codes.

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Trans Code	DR/CR	File	Title	Valid Doc. Code	Remarks
591			B//E Satisfying Trans.	14, 49 or Generated Transaction	No longer liable for tax. Satisfies this module and all subsequent modules for same MFT if not already delinquent. Requires a two digit closing code for IDRS input. See Section 11 for appropriate closing codes.
592			B//E Reverse 59X Trans	14, 49	Reverse any previously posted TC 59x (regardless of the TC 59x cc) present in the module. Updates FRC from 0 to 1.
593			B//E Satisfying Trans	14, 49 or Generated Transaction	Unable to locate taxpayer. Satisfies this module and all subsequent modules for same MFT. Requires a two digit closing code for IDRS input. See Section 11 for appropriate closing codes. TC 593 updates the Filing Requirement Code to zero. Note: when an address change posts to the entity, a TC 592 is generated 1 cycle later for each module with a RDD within the previous 5 years of the current 23C date.
594			B//E Satisfying Trans	14, 49	Return previously filed. Satisfies this module only. Requires a two digit closing code for IDRS input. See Section 11 for appropriate closing codes.
595			B//E Satisfying Trans	14, 49	Referred to Examination. Satisfies this module and all subsequent modules for same MFT. Requires a two digit closing code for IDRS input. Updates FRC to zero. See Section 11 for appropriate closing codes.
596			B//E Satisfying Trans	14, 49	Referred to Criminal Investigation. Satisfies this module and all subsequent modules for same MFT. Requires a two digit closing code for IDRS input. Updates FRC to zero. See Section 11 for appropriate closing codes.
597			B//E Satisfying Trans	14, 49	Surveyed. By National Office direction only. Satisfies this module only. Requires a two digit closing code for IDRS input. See Section 11 for appropriate closing codes.
598			B//E Satisfying Trans	14, 49	Shelved. By National Office direction only. Satisfies this module only. Requires a two digit closing code for IDRS input. See Section 11 for appropriate closing codes.

IMF with Lien Indicator

- A. Go to page 81, Exhibit A, 1 of 4, and let's go through this IMF.
1. Item Numbers 5 and 7 show no ~~Z~~ code so there is no Criminal Investigation.
 2. Number 9, this a freeze of GT-R.
 - a. The G is a math error.
 - b. The T is freeze is a TDA status assigned to collection and identifies an account assigned to CID.
 - c. The -K, an additional tax liability pending and a TC 570 is posted.
 3. Number 12 shows that the IRS has created a substitute for Return (SFR).
- B. Exhibit A, 2 of 4 line 106, 108, and 110, shows a TC 914 CID activity with blocking codes 300, 311, and 303 (US-UK tax treaty).
1. Line 112, TC 425 with a 200 blocking number (non-taxable 1040).
 2. Line 118, TC 420 and AIMS #0000000044.
- C. Line 130 and line 136 - TC 582 Regular Lien.
1. We find this entry in Exhibit A page 2 of 4, at line 130, and page 3 of 4, line 136.
 2. Make sure you do a FOIA request for that DLN if you have a TC 582 posted.
 - a. When we decode your IMF, we also provide all those FOIAs for each DLN to you. You simply mail them to the IRS.
 3. Exhibit A, 3 of 4, at line 136, we see another lien TC 582.
- D. Exhibit A, 4 of 4 we see the last item, MF STAT 26 that goes with the posted FZ-T code.
- E. If you are the victim of a lien and it is not posted to your IMF then how can it apply to you?

001120

PAGE NO-0001

IMF MCC TRANSCRIPT-SPECIFIC

EMP NO 79-144-5342

ACCOUNT NO [REDACTED]
NAME CONT- [REDACTED]

03-20-2002
CYCLE-200212

(1)

FOR-7914453427 BY-7914453427 ON-03202002 TYP-S-30-198312
TIME-08 05 SRC-I IRS empl.

PROCESSED ON-079 (2)

REQUESTED TAX MODULE FOUND ON MF

1983 1

199606 5

(4) BODC-WI BODCLC-

(6)

LDC-3814
YEAR REMOVED-

ENT EXT CYC-200210
CNC

(3) PRIOR NAME CONTROL- (5)
MFR-05 VAL-1 IRA-

FZ> - CAF-

FYM-12 SCS- CRINV- 130-
RPTR- PMF- SHEL- BNKRPT- BLLC-
ACCRETION- MIN SE-
JUSTIFICATION-1 IRS EMPL- FED EMPL-

PTNL [REDACTED]

LSTRET-1984 ME- CND-E FLC-00 199606

TAX PERIOD 30 198312 *

REASON CD-

MOD EXT CYC-2002

FS-1 CRINV- (7)

LIEN-4 17247-684-00375-6

CAF- FZ>GT -R (9)

TDA COPYS-4340
INT TOLERANCE- MATH INCREASE- HISTORICAL DO-JB BWNC- BWI-
MF MOD BAL- 9,038.10
ACRUED INTEREST- 15,656.54 03182002
ACRUED PENALTY- 0.00 20020318
FMS-SIA CD-0

CSED-11/04/2006 (10)
RSED-08/15/1987
ARDI-0

ASED-10/4/1999

SFR 150 02/19/1996 (11)

ERR- 0.00 199606
17/10-020-00375-6 CD- SRC-
TAX PER T/P- (14) 0.00

RCC-
RET RCVD DT-01/10/1996

26,755.00

(12)

Line 102

FOREIGN- FARM- ME P-
XRF- AEIC- 0.00
NAI- EXPT-OI NEG- 0.00
LTEX- TAXABLE INC- 26,755.00
PENALTY SUPP-1200 SET- 2,500.00
MDP- TOTAL WAGES- 0.00
EST TAX BASE- (13) 0.00
PR YR BAGE- 0.00
SHORT YR CD- ES FORGIVENESS 0.00
1ST SE-26,754.00 2ND SE- 0.00
ACCT TYPE-
EFT-0

*****CONTINUED ON NEXT PAGE*****

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/IDA/AIMS/IMF/BMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.

Exhibit A1 of 4

001121

PAGE NO-0002 TAX PERIOD 30 198312*CONTINUED

IMF MCC TRANSCRIPT-SPECIFIC

EMP NO 79-144-5342

ACCOUNT NO [REDACTED] 03-20-2002
NAME CONT- [REDACTED] CYCLE-20012

F8615- UNAPPLD CR ELECT- 0.00
ES TAX PAYMENT- 0.00
HIGH INCOME- DIR DEP REJ RSN CD 00
PUTI- 0 SUTI-
PMEI- 0 SMEI-
PMTI- 0 SMTI-

104 460 04/15/1984----- 198421 172/17-126-21412-4
EXT DATE-08151984

106 914 07/15/1985----- 198530 382/77-596-30000-5

108 914 09/31/1989----- 198936 382/77-643-31182-9

110 914 03/27/1995----- 199514 382/77-486-30321-5

112 425 03/15/1995----- 199517 382/77-074-20000-5
SOURCE-44 ORG- PROJ- RET REQ-
PTR DO-

114 912 11/29/1995----- 199549 382/77-733-30007-5

116 570 02/19/1996----- 199606 172/10-020-00318-6
COLCLOS- CYCLES-

118 420 02/07/1996----- 199607 382/77-038-00000-6
AIMS #0000000044 FOIA

120 421 02/07/1996----- 199608 382/77-440-01516-6
DISP CD- SOURCE-

122 320 1/04/1996 12,702.00 199643 172/47-684-00375-6
PRC-

124 170 1/04/1996 466.00 199643 172/47-684-00375-6
PRC- EST FMTLY WAIVED- 0.00

126 307 1/04/1996 7,578.00 199643 172/47-684-00375-6
HC DC10 8700 AGED10041997
P01 48

CLAIM REJECT DT-

128 334 1/04/1996 17,869.72 199643 172/47-684-00375-6
REFERENCE AMT-

130 582 03/14/1997----- 199713 382/77-477-02705-7
REGULAR LIEN

*****CONTINUED ON NEXT PAGE*****

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/IDA/AIMS/IMF/BMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.

Exhibit A 2 of 4

001122

PAGE NO-0003 TAX PERIOD 30 198312*CONTINUED

IMF MCC TRANSCRIPT-SPECIFIC

EMP NO 79-144-5342

ACCOUNT NO [REDACTED] 03-20-2002
NAME CONT- [REDACTED] CYCLE-200212

132 670 03181997 0.00 199713 17218-477-01301-7
PRC-
DESG PAY CD-99

134 360 04071997 48.00 199713 17218-477-01301-7
PRC-

136 582 04181997 ----- 199718 38277-512-03846-7
REGULAR LIEN

138 670 04221997 0.00 199718 17218-512-01344-7
PRC-
DESG PAY CD-99

140 360 05121997 54.00 199718 17218-512-01344-7
PRC-

142 670 04281997 141.21- 199720 17217-125-39323-7
PRC-
DESG PAY CD-05

144 670 08151997 507.80- 199726 17217-237-32322-7
PRC-
DESG PAY CD-05

146 670 09171997 507.80- 199740 17217-265-33532-7
PRC-
DESG PAY CD-05

148 670 10201997 507.80- 199743 17217-297-33125-7
PRC-
DESG PAY CD-05

150 670 11131997 507.80- 199748 17217-322-35415-7
PRC-
DESG PAY CD-05

152 670 12231997 507.80- 199801 17217-002-31225-8
PRC-
DESG PAY CD-05

154 670 01211998 507.80- 199803 17217-028-33506-8
PRC-
DESG PAY CD-05

156 670 01231998 507.80- 199813 17217-085-43225-8

CONTINUED ON NEXT PAGE

E.I. NO. 28-000

U.S. GOVERNMENT PRINTING OFFICE: 1987 - 181-471/81840

FORM 977 (7-77)

You are hereby put on NOTICE that this letter must be filed as a permanent part of my IRS/IDA/AIMS/IMF/BMF 23C record. If such record(s) have/has been deleted or substituted, this demand still applies.

Exhibit A 3 of 4

200107

PAGE NO-0006 TAX PERIOD 30 198312*CONTINUED

IMF MCC TRANSCRIPT-SPECIFIC

EMP NO 79-144-53427

ACCOUNT NO [REDACTED] 03-20-2002
NAME CONT- [REDACTED] CYCLE-200212

PRC-
DESG PAY CD-05

254 670 12132001 589.80- 200204 17217-362-02311-1

PRC-
DESG PAY CD-05

256 670 01142002 618.80- 200206 17217-029-00304-2

PRC-
DESG PAY CD-05

258 670 02112002 618.80- 200209 17217-050-03314-2

PRC-
DESG PAY CD-05

260 971 03132002 ----- 200210 28277-902-07010-1

XREF-
X-MFT-00 MEMO-

971 CD-062
FTD ALRT-C

262 971 03132002 ----- 200210 38277-999-99999-2

XREF-
X-MFT-00 MEMO-

971 CD-067
FTD ALRT-C

MF STAT-04	04041984	EXT DT-08151984	198421	Line 402
MF STAT-06	05111990	0.00	199038	427
MF STAT-02	12131995	1 NOTICE DO-38	199549	406
MF STAT-03	01011996	5 NOTICE DO-38	199551	408
MF STAT-03	02171996	6 NOTICE DO-38	199606	410
MF STAT-21	11041996	38,615.72	199643	412
MF STAT-58	11231996	38,615.72	199646	414
MF STAT-26	01041997	38,615.72	199652	416

Exhibit A 4 of 4

IRS Lien Forms

A. 668-F Notice of Federal Tax Lien under Internal Revenue Laws (not income tax laws).

1. Part 1 to be kept by recording office.

B. Part 2- to be signed and returned to the Internal Revenue.

C. Part 3- to be used for recording purposes.

D. Part 4- to be kept by SPF. "Send in a FOIA request for this one"

E. Part 5- Where is part 5?

1. We have been looking for it, but have yet to find it. If you have part 5 please send it to us. Thanks!

F. Part 6-TDA copy.

G. Now, compare these forms and see how they are different. What is different about them?

Notice of Federal Tax Lien Under Internal Revenue Laws

District _____

Serial number _____

For Optional Use by Recording Office

As provided by sections 6321, 6322, and 6323 of the Internal Revenue Code, notice is given that taxes (including interest and penalties) have been assessed against the following-named taxpayer. Demand for payment of this liability has been made, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

Name of taxpayer _____

Residence _____

Kind of Tax (a)	MFT (b)	Tax Period Ended (c)	Date of Assessment (d)	Identifying Number (e)	Unpaid Balance of Assessment (f)
<div style="border: 2px solid black; padding: 10px; text-align: center; font-weight: bold; font-size: 1.2em;"> THIS FORM IS FOR INTERNAL USE ONLY. DO NOT FILE. </div>					

Place of filing _____

Total ▶ \$ _____

Notice of Federal Tax Lien Refiling

IRS serial number _____ Recorder's identification number _____

Notice filed with _____ Date _____

Taxpayer's address (If different than shown above) _____

Signature _____ Title _____

This notice was prepared and signed at _____

on this the _____ day of _____, 19 _____.

Signature _____ Title _____

Note: Certificate of officer authorized by law to take acknowledgements is not essential to the validity of Notice of Federal Tax Lien. Rev. Rul. 71-466, 1971-2 C.B. 409.

Part 1 - To be kept by recording office

Form 668-F (Rev. 2-85)

Department of the Treasury - Internal Revenue Service
Notice of Federal Tax Lien
Under Internal Revenue Laws

District _____ Serial number _____ *For Optional Use by Recording Office*

As provided by sections 6321, 6322, and 6323 of the Internal Revenue Code, notice is given that taxes (including interest and penalties) have been assessed against the following-named taxpayer. Demand for payment of this liability has been made, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

Name of taxpayer _____

Residence _____

Kind of Tax <i>(a)</i>	MFT <i>(b)</i>	Tax Period Ended <i>(c)</i>	Date of Assessment <i>(d)</i>	Identifying Number <i>(e)</i>	Unpaid Balance of Assessment <i>(f)</i>
THIS FORM IS FOR INTERNAL USE ONLY. DO NOT FILE.					

Place of filing _____ Total ▶ \$

Notice of Federal Tax Lien Refiling

IRS serial number _____ Recorder's identification number _____
 Notice filed with _____ Date _____
 Taxpayer's address (if different than shown above) _____
 Signature _____ Title _____

This notice was prepared and signed at _____
 on this the _____ day of _____, 19 ____ .
 Signature _____ Title _____

Note: Certificate of officer authorized by law to take acknowledgments is not essential to the validity of Notice of Federal Tax Lien. Rev. Rul. 71-466. 1971-2 C.B. 409.

Part 2 - To be signed and returned to the Internal Revenue

Form 668-F (Rev. 2-85)

Form **668-F**
(Rev. February 1985)

Certificate of Release of Federal Tax Lien

District _____ Serial number _____ For Optional Use by Recording Office _____

I certify that as to the following-named taxpayer, the requirements of section 6325(a) of the Internal Revenue Code have been satisfied for the taxes listed below and for all statutory additions. Therefore, the lien provided by Code section 6321 for these taxes and additions has been released. The proper officer in the office where the notice of internal revenue tax lien was filed on _____, 19____, is authorized to note the books to show the release of this lien for these taxes and additions.

Name of taxpayer _____

Residence _____

Kind of Tax (a)	MFT (b)	Tax Period Ended (c)	Date of Assessment (d)	Identifying Number (e)	Unpaid Balance of Assessment (f)
<div style="border: 2px solid black; padding: 10px; display: inline-block;"> <p style="margin: 0;">THIS FORM IS FOR INTERNAL USE ONLY. DO NOT FILE.</p> </div>					

Place of filing _____ Total ▶ \$ _____

Notice of Federal Tax Lien Refiling

IRS serial number _____ Recorder's identification number _____

Notice filed with _____ Date _____

Taxpayer's address (If different than shown above) _____

Signature _____ Title _____

This notice was prepared and signed at _____
 on this the _____ day of _____, 19____.
 Signature _____ Title _____

Note: Certificate of officer authorized by law to take acknowledgements is not essential to the validity of Notice of Federal Tax Lien. Rev. Rul. 71-466, 1971-2 C.B. 409.

Part 3 - To be used for recording purposes

Form **668-F** (Rev. 2-85)

Certificate of Release of Federal Tax Lien

District _____ Serial number _____ *For Optional Use by Recording Office*

I certify that as to the following-named taxpayer, the requirements of section 6325(a) of the Internal Revenue Code have been satisfied for the taxes listed below and for all statutory additions. Therefore, the lien provided by Code section 6321 for these taxes and additions has been released. The proper officer in the office where the notice of internal revenue tax lien was filed on _____, 19____, is authorized to note the books to show the release of this lien for these taxes and additions.

Name of taxpayer _____

Residence _____

Kind of Tax <i>(a)</i>	MFT <i>(b)</i>	Tax Period Ended <i>(c)</i>	Date of Assessment <i>(d)</i>	Identifying Number <i>(e)</i>	Unpaid Balance of Assessment <i>(f)</i>
<div style="border: 2px solid black; padding: 10px; width: 100%;"> <p style="margin: 0;">THIS FORM IS FOR INTERNAL USE ONLY. DO NOT FILE.</p> </div>					

Place of filing _____

Total ▶ \$ _____

Notice of Federal Tax Lien Refiling

IRS serial number _____ Recorder's identification number _____

Notice filed with _____ Date _____

Taxpayer's address (if different than shown above) _____

Signature _____ Title _____

This notice was prepared and signed at _____

on this the _____ day of _____, 19____.

Signature _____ Title _____

Note: Certificate of officer authorized by law to take acknowledgments is not essential to the validity of Notice of Federal Tax Lien. Rev. Rul. 71-466, 1971-2 C.B. 409.

Part 4 - To be kept by SPf

Form **668-F** (Rev. 2-85)

District		Serial number	Revenue officer (Signature)
<small>Please release the lien indicated because</small>			Date
Account satisfied (Date)	By (Cash, m.o., cert. check, personal check) (Not cert.), abatement, etc.)		Approved (Signature of Supervisor/Mgr.)
Statutory period for collection expired (Date)	<input type="checkbox"/> Bond accepted		Date
Name of taxpayer			Approved (Signature of Chief, SPf, if applicable)
Residence			Date

Kind of Tax (a)	MFT (b)	Tax Period Ended (c)	Date of Assessment (d)	Identifying Number (e)	Unpaid Balance of Assessment (f)
<div style="border: 2px solid black; padding: 10px; display: inline-block;"> <p style="margin:0;">THIS FORM IS FOR INTERNAL USE ONLY. DO NOT FILE.</p> </div>					

Place of filing	Total	\$
-----------------	-------	----

Notice of Federal Tax Lien Refiling

IRS serial number _____ Recorder's identification number _____

Notice filed with _____ Date _____

Taxpayer's address (If different than shown above) _____

Signature _____ Title _____

This notice was prepared and signed at _____

on this the _____ day of _____, 19____.

Signature _____ Title _____

Recorder Reference	Recording Fee	Release Fee	Lien Sequence Number
	\$	\$	

Note: Certificate of officer authorized by law to take acknowledgments is not essential to the validity of Notice of Federal Tax Lien.
Rev. Rul. 71-466, 1971-2 C.B. 409.

Lien for Taxes

- A. Introducing the Legislative History of the Federal Tax Lien. it involves hundreds of pages so we are going to try to boil it down to a few pages.
- B. Exhibit A, in the column marked collection, we see 301. 6301-7.
 - 1. Go to Exhibit B, page 1 of 3, at 301. 6301-1 Collection Authority.
 - 2. “The Taxes” (what taxes?) imposed by the “Internal Revenue Laws” (not the income tax laws) “shall be collected by district directors of Internal Revenue”, (there are no longer any district directors under the IRC, but there are under the ATF). “See, however section 6304 relating to the collection of certain taxes under the provisions of the Tariff Act of 1930 (19 USC Ch. 4).” (Excise Taxes under ATF).
 - 3. Exhibit B, 3 of 3 at (ii). Where is the document that certifies the amount that they claim you owe in the Internal Revenue Code?
- C. As we have seen in other title 26-code sections the parallel table of authorities directs us to title 27 part 70 CFR.
 - 1. Exhibit C, at the top of the page we find, “Lien of Taxes”, 70.140 through 70.151.
- D. Exhibit D, 1 of 5 bottom left column AUTHORITY 6321- Lien for taxes.
 - 1. Exhibit D, 2 of 5, section 70.141 Lien for taxes, “If any person” (what is this definition of person)? “Liable to pay any tax under provisions of 26 USC” (not under title 27). “Enforced and administered by the Bureau...”
 - a. Where is the Authority for this section? 26 USC 6321 at the bottom of the paragraph.
 - 2. Exhibit D, 3 of 5, second column paragraph (e).
 - a. Tax lien filing. “The term tax lien filing means the filing of notice of the lien imposed by 26 USC 6321 in accordance with 70.148 of this part.”
 - 3. Which sections of the Internal Revenue Code apply to title 27 taxes?
 - 4. Go to Exhibit D, 5 of 5, 70.148 bottom left column at (c) Form- (1) in general. The Notice referred to in section 70.145 of this part shall be filed on ATF form 5651.2, “Notice of Federal Tax Lien under Internal Revenue Laws.” Such notice is valid not with standing any other provision of law regarding the form or content

of a notice of Lien. For example, omission from the notice of lien of a description of the property subject to the lien does not effect the validity thereof even though state law may require that the notices contain a description of the property subject to the lien.

- a. Look at the word State above with a capital “S”, what State are they referring to? That’s right, the four territories plus Washington DC under Article 1 see 8 clause 17 and 18 United States Constitution. No federal entity can supersede state law unless we let them. However, Federal Law supersedes local territorial law?
5. Read next paragraph (2). ATF form 5651.2 defined.
- a. If you have an ATF form 5651.2 please send us a copy as we have the instructions but not the form itself for a Federal Tax Lien.
- E. We put this section in this “VIP Dispatch” to see if we can get you as confused as we get trying to paste this together and make some sense out of it.
- F. We are going to be covering more about liens and levies in future issues of the “VIP Dispatch.”

- 301.6231(e)-1T Effect of a determination with respect to a nonpartnership item on the determination of a partnership item (temporary).
- 301.6231(e)-2T Judicial decision not a bar to certain adjustments (temporary).
- 301.6231(f)-1T Disallowance of losses and credits in certain cases (temporary).
- 301.6233-1T Extension to entities filing partnership returns, etc. (temporary).
- 301.6241-1T Tax treatment determined at corporate level.
- 301.6245-1T Subchapter S items.

Collection

GENERAL PROVISIONS

- 301.6301-1 Collection authority.
- 301.6302-1 Mode or time of collection of taxes.
- 301.6303-1 Notice and demand for tax.
- 301.6305-1 Assessment and collection of certain liability.

RECEIPT OF PAYMENT

- 301.6311-1 Payment by check or money order.
- 301.6311-2T Payment by credit card and debit card (temporary).
- 301.6312-1 Treasury certificates of indebtedness, Treasury notes, and Treasury bills acceptable in payment of internal revenue taxes or stamps.
- 301.6312-2 Certain Treasury savings notes acceptable in payment of certain internal revenue taxes.
- 301.6313-1 Fractional parts of a cent.
- 301.6314-1 Receipt for taxes.
- 301.6315-1 Payments of estimated income tax.
- 301.6316-1 Payment of income tax in foreign currency.
- 301.6316-2 Definitions.
- 301.6316-3 Allocation of tax attributable to foreign currency.
- 301.6316-4 Return requirements.
- 301.6316-5 Manner of paying tax by foreign currency.
- 301.6316-6 Declarations of estimated tax.
- 301.6316-7 Payment of Federal Insurance Contributions Act taxes in foreign currency.
- 301.6316-8 Refunds and credits in foreign currency.
- 301.6316-9 Interest, additions to tax, etc.

LIEN FOR TAXES

- 301.6320-1T Notice and opportunity for hearing upon filing of notice of Federal tax lien (temporary).
- 301.6321-1 Lien for taxes.
- 301.6323(a)-1 Purchasers, holders of security interests, mechanic's lienors, and judgment lien creditors.
- 301.6323(b)-1 Protection for certain interests even though notice filed.

- 301.6323(c)-1 Protection for commercial transactions financing agreements.
- 301.6323(c)-2 Protection for real property construction or improvement financing agreements.
- 301.6323(c)-3 Protection for obligatory disbursement agreements.
- 301.6323(d)-1 45-day period for making disbursements.
- 301.6323(e)-1 Priority of interest and expenses.
- 301.6323(f)-1 Place for filing notice; form.
- 301.6323(g)-1 Refiling of notice of tax lien.
- 301.6323(h)-0 Scope of definitions.
- 301.6323(h)-1 Definitions.
- 301.6323(i)-1 Special rules.
- 301.6324-1 Special liens for estate and gift taxes; personal liability of transferees and others.
- 301.6324A-1 Election of and agreement to special lien for estate tax deferred under section 6166 or 6166A.
- 301.6325-1 Release of lien or discharge of property.
- 301.6326-1 Administrative appeal of the erroneous filing of notice of federal tax lien.

SEIZURE OF PROPERTY FOR COLLECTION OF TAXES.

- 301.6330-1T Notice and opportunity for hearing prior to levy (temporary)
- 301.6331-1 Levy and distraint.
- 301.6331-2 Procedures and restrictions on levies.
- 301.6332-1 Surrender of property subject to levy.
- 301.6332-2 Surrender of property subject to levy in the case of life insurance and endowment contracts.
- 301.6332-3 The 21-day holding period applicable to property held by banks.
- 301.6333-1 Production of books.
- 301.6334-1 Property exempt from levy.
- 301.6334-2 Wages, salary, and other income.
- 301.6334-3 Determination of exempt amount.
- 301.6334-4 Verified statements.
- 301.6335-1 Sale of seized property.
- 301.6336-1 Sale of perishable goods.
- 301.6337-1 Redemption of property.
- 301.6338-1 Certificate of sale; deed of real property.
- 301.6339-1 Legal effect of certificate of sale of personal property and deed of real property.
- 301.6340-1 Records of sale.
- 301.6341-1 Expense of levy and sale.
- 301.6342-1 Application of proceeds of levy.
- 301.6343-1 Requirement to release levy and notice of release.
- 301.6343-2 Return of wrongfully levied upon property.
- 301.6361-1 Collection and administration of qualified taxes.
- 301.6361-2 Judicial and administrative proceedings; Federal representation of State interests.
- 301.6361-3 Transfers to States.

furnishing information to a shareholder, the S corporation must determine:

(i) The character of the amount transferred to a shareholder (for example, whether it is a dividend, compensation, loan, or repayment of a loan);

(ii) The amount of money distributed to a shareholder;

(iii) The fair market value of property distributed to a shareholder;

(iv) The adjusted basis to the corporation of distributed property; and

(v) The character of corporation property (for example, whether an item is inventory or a capital asset).

To the extent that a determination of an item relating to a distribution can be made from these and similar determinations that the corporation is required to make, that item is a subchapter S item. To the extent that the determination requires other information, however, that item is not a subchapter S item. Such other information would include the determination of a shareholder's basis in the shareholder's stock or in the indebtedness of the S corporation to the shareholder.

(d) *Cross reference.* For the definition of subchapter S item for purposes of the windfall profit tax, see § 51.6245-1T.

(e) *Effective date.* This section shall apply to taxable years beginning after December 31, 1982.

[T.D. 8122, 52 FR 3003, Jan. 30, 1987]

COLLECTION

General Provisions

→ § 301.6301-1 Collection authority.

The taxes imposed by the internal revenue laws shall be collected by district directors of internal revenue. See, however, section 6304, relating to the collection of certain taxes under the provisions of the Tariff Act of 1930 (19 U.S.C. ch. 4).

§ 301.6302-1 Mode or time of collection of taxes.

(a) *Employment and excise taxes.* For provisions relating to the mode or time of collection of certain employment and excise taxes and the use of Federal Reserve banks and authorized commercial banks in connection with the pay-

ment thereof, see the regulations relating to the particular tax.

(b) *Income taxes.* (1) For provisions relating to the use of Federal Reserve banks or authorized commercial banks in depositing income and estimated income taxes of certain corporations, see § 1.6302-1 of this chapter (Income Tax Regulations).

(2) For provisions relating to the use of Federal Reserve banks or authorized commercial banks in depositing the tax required to be withheld under chapter 3 of the Code on nonresident aliens and foreign corporations and tax-free covenant bonds, see § 1.6302-2 of this chapter.

§ 301.6303-1 Notice and demand for tax.

(a) *General rule.* Where it is not otherwise provided by the Code, the district director or the director of the regional service center shall, 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 given as soon as possible and within 60 days. However, the failure to give notice within 60 days does not invalidate the notice. 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.* If any tax is assessed prior to the last date prescribed for payment of such tax, demand that such tax be paid will not be made before such last date, except where it is believed collection would be jeopardized by delay.

§ 301.6305-1 Assessment and collection of certain liability.

(a) *Scope.* Section 6305(a) requires the Secretary of the Treasury or his delegate to assess and collect amounts which have been certified by the Secretary of Health and Human Services as the amount of a delinquency determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a child or of a child and the parent with whom the child is living. These amounts, referred to as "child and spousal support", are to be

collected in the same manner and with the same powers exercised by the Secretary of the Treasury or his delegate in the collection of an employment tax which would be jeopardized by delay. However, where the assessment is the first assessment against an individual for a delinquency described in this paragraph for a particular individual or individuals, the collection is to be stayed for a period of 60 days following notice and demand. In addition, no interest or penalties (with the exception of the penalties imposed by sections 6332(c)(2) and 6657) shall be assessed or collected on the amounts, paragraphs (4), (6) and (8) of section 6334(a) (relating to property exempt from levy) shall not apply; and, there shall be exempt from levy so much of the salary, wages, or other income of the individual which is subject to garnishment pursuant to a judgment entered by a court for the support of his or her minor children. Section 6305(b) provides that sole jurisdiction for any action brought to restrain or review assessment and collection of the certified amounts shall be in a State court or a State administrative agency.

(b) *Assessment and collection*—(1) *General rule*. Upon receipt of a certification or recertification from the Secretary of Health and Human Services or his delegate under section 452(b) of title IV of the Social Security Act as amended (relating to collection of child and spousal support obligations with respect to an individual), the district director or his delegate shall assess and collect the certified amount (or recertified amount). Except as provided in paragraph (c) of this section, the amount so certified shall be assessed and collected in the same manner, with the same powers, and subject to the same limitations as if the amount were an employment tax the collection of which would be jeopardized by delay. However, the provisions of subtitle F with respect to assessment and collection of taxes shall not apply with respect to assessment and collection of a certified amount where such provisions are clearly inappropriate to, and incompatible with, the collection of certified amounts generally. For example, section 6861(g) which allows the Secretary or his delegate to abate a jeop-

ardly assessment if he finds a jeopardy does not exist will not apply.

(2) *Method of assessment*. An assessment officer appointed by the district director pursuant to §301.6203-1 to make assessments of tax shall also make assessments of certified amounts. The assessment of a certified amount shall be made by the assessment officer signing the summary record of assessment. The date of assessment is the date the summary record is signed by the assessment officer. The summary record, through supporting records as necessary, shall provide—

(i) The assessed amount;

(ii) The name, social security number, and last known address of the individual owing the assessed amount;

(iii) A designation of the assessed amount as a certified amount, together with the date on which the amount was certified and the name, position, and governmental address of the officer of the Department of Health and Human Services who certified the amount;

(iv) The period to which the child and spousal support obligation represented by the certified amount relates;

(v) The State in which was entered the court or administrative order giving rise to the child and spousal support obligation represented by the certified amount;

(vi) The name of the person or persons to whom the child and spousal support obligation represented by the certified amount is owed; and

(vii) The name of the child or children or the parent of the child or children for whose benefit the child and spousal support obligation exists.

Upon request, the individual assessed shall be furnished a copy of pertinent parts of this assessment which set forth the information listed in subdivision (i) through (vii) of this paragraph (b)(2).

(3) *Supplemental assessments and abatements*. If any assessment is incomplete or incorrect in any material respect, the district director or his delegate may make a supplemental assessment or abatement but only for the purpose of completing or correcting the original assessment. A supplemental

assessment will not be used as a substitute for an additional assessment against an individual.

(4) *Method of collection.* (i) The district director or his delegate shall make notice and demand for immediate payment of certified amounts. Upon failure or refusal to pay such amounts, collection by levy shall be lawful without regard to the 10-day waiting period provided in section 6331(a). However, in the case of certain first assessments, paragraph (c)(4) of this section provides a rule for a stay of collection for 60 days. For purposes of collection, refunds of any internal revenue tax owed to the individual may be offset against a certified amount.

→ (ii) The district director or his delegate shall make diligent and reasonable efforts to collect certified amounts as if such amounts were taxes. He shall have no authority to compromise a proceeding by collection of only part of a certified amount in satisfaction of the full certified amount owing. However, he may arrange for payment of a certified amount by installments where advisable.

(iii) The district director or his delegate may offset the amount of any overpayment of any internal revenue tax (as described in section 301.6401-1) to be refunded to the person making the overpayment by the amount of any past-due support (as defined in the regulations under section 6402) owed by the person making the overpayment. The amounts offset under section 6402(c) may be amounts of child and spousal support certified (or recertified) for collection under section 6305 and this section or they may be amounts of past-due support of which the Secretary of the Treasury has been notified under section 6402(c) and the regulations under that section.

(5) *Credits or refunds.* In the case of any overpayment of a certified amount, the Secretary of the Treasury or his delegate, within the period of limitations for credit or refund of employment taxes, may credit the amount of the overpayment against any liability in respect of an internal revenue tax on the part of the individual who made the overpayment and shall refund any balance to the indi-

vidual. However, the full amount of any overpayment collected by levy upon property described in paragraph (c)(2) (i), (ii), or (iii) of this section shall be refunded to the individual. For purposes of applying this subparagraph, the rules of §301.6402-2 apply where appropriate.

(6) *Disposition of certified amounts collected.* Any certified amount collected shall be deposited in the general fund of the United States, and the officer of the Department of Health and Human Services who certified the amount shall be promptly notified of its collection. There shall be established in the Treasury, pursuant to section 452 of title IV of the Social Security Act as amended, a revolving fund which shall be available to the Secretary of Health and Human Services or his delegate, without fiscal year limitation, for distribution to the States in accordance with the provisions of section 457 of the Act. Section 452(c)(2) of the Act appropriates to this revolving fund out of any monies not otherwise appropriated, amounts equal to the certified amounts collected under this paragraph reduced by the amounts credited or refunded as overpayments of the certified amounts so collected. The certified amounts deposited shall be transferred at least quarterly from the general fund of the Treasury to the revolving fund on the basis of estimates made by the Secretary of the Treasury or his delegate. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred. See, however, paragraph (c)(1) of this section for the special rule requiring retention in the general fund of certain penalties which may be collected.

(c) *Additional limitations and conditions—*(1) *Interest and penalties.* No interest, penalties or additional amounts, other than normal and reasonable collection costs, may be assessed or collected in addition to the certified amount, other than the penalty imposed by section 6332(c)(2) for failure to surrender property subject to levy and the penalty imposed by section 6657 for the tender of bad checks. Any such penalties and collection costs, if collected, will not be treated

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- **AUTHORITY:** 5 U.S.C. 301 and 552; 26 U.S.C. 4181, 4182, 5146, 5203, 5207, 5275, 5367, 5415, 5504, 5555, 5684(a), 5741, 5761(b), 5802, 6020, 6021, 6064, 6102, 6155, 6159, 6201, 6203, 6204, 6301, 6303, 6311, 6313, 6314, 6321, 6323, 6325, 6326, 6331-6343, 6401-

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SOURCE: T.D. ATF-6, 38 FR 32445, Nov. 26, 1973, unless otherwise noted.

Subpart A—Scope

§ 70.1 General.

(a) The regulations in Subparts C, D, and E of this part set forth the procedural and administrative rules of the Bureau of Alcohol, Tobacco and Firearms for:

(1) The issuance and enforcement of summonses, examination of books of account and witnesses, administration of oaths, entry of premises for examination of taxable objects, granting of rewards for information, canvass of regions for taxable objects and persons, and authority of ATF officers.

(2) The use of commercial banks for payment of excise taxes imposed by 26 U.S.C. Subtitles E and F.

(3) The preparing or executing of returns; deposits; payment on notice and demand; assessment; abatements, credits and refunds; limitations on assessment; limitations on credit or refund; periods of limitation in judicial proceedings; interest; additions to tax, additional amounts, and assessable penalties; enforced collection activities; authority for establishment, alteration, and distribution of stamps, marks, or labels; jeopardy assessment of alcohol, tobacco, and firearms taxes, and registration of persons paying a special tax.

(4) Distilled spirits, wines, beer, tobacco products, cigarette papers and tubes, firearms, ammunition, and explosives.

(b) The regulations in Subpart F of this part relate to the limitations imposed by 26 U.S.C. 6423, on the refund or credit of tax paid or collected in respect to any article of a kind subject to a tax imposed by Part I, Subchapter A of Chapter 51, I.R.C., or by any corresponding provision of prior internal revenue laws.

(c) The regulations in Subpart G of this part implement 26 U.S.C. 5064, which permits payments to be made by

spirits, wine, and beer; and part 296 of this chapter, relating to tobacco products, and cigarette papers and tubes.

(26 U.S.C. 6416 and 6423)

[T.D. ATF-331, 57 FR 40328, Sept. 3, 1992]

LIEN FOR TAXES

SOURCE: Sections 70.141 through 70.151 added by T.D. ATF-301, 55 FR 47616, Nov. 14, 1990, unless otherwise noted.

→ § 70.141 Lien for taxes.

If any person liable to pay any tax under provisions of 26 U.S.C. enforced and administered by the Bureau neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax, or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, tangible or intangible, belonging to such person. The lien attaches to all property and rights to property belonging to such person at any time during the period of the lien, including any property or rights to property acquired by such person after the lien arises. Solely for purposes of this section and §§ 70.161 and 70.162 of this part, any interest in restricted land held in trust by the United States for an individual noncompetent Indian (and not for a tribe) shall not be deemed to be property, or a right to property, belonging to such Indian.

→ (26 U.S.C. 6321)

§ 70.142 Scope of definitions.

Except as otherwise provided by § 70.143 of this part, the definitions provided by §§ 70.143 apply for purposes of § 70.142 through 70.149 and §§ 70.231 through 70.234 of this part.

§ 70.143 Definitions.

(a) *Security interest*—(1) *In general*. The term *security interest* means any interest in property acquired by contract for the purpose of securing payment or performance of an obligation or indemnifying against loss or liability. A security interest exists at any time:

(i) If, at such time, the property is in existence and the interest has become

protected under local law against a subsequent judgment lien (as provided in paragraph (a)(2) of this section) arising out of an unsecured obligation; and

(ii) To the extent that, at such time, the holder has parted with money or money's worth (as defined in paragraph (a)(3) of this section). For purposes of paragraph (a)(1) of this section, a contract right (as defined in § 70.232(c)(2)(i) of this part) is in existence when the contract is made. An account receivable (as defined in § 70.232(c)(2)(ii) of this part) is in existence when, and to the extent, a right to payment is earned by performance. A security interest must be in existence, within the meaning of paragraph (a) of this section, at the time as of which its priority against a tax lien is determined. For example, to be afforded priority under the provisions of § 70.145(a) of this part, a security interest must be in existence within the meaning of paragraph (a) of this section before a notice of lien is filed.

(2) *Protection against a subsequent judgment lien*. For purposes of paragraph (a) of this section, a security interest is deemed to be protected against a subsequent judgment lien on:

(i) The date on which all actions required under local law to establish the priority of a security interest against a judgment lien have been taken, or

(ii) If later, the date on which all required actions are deemed effective, under local law, to establish the priority of the security interest against a judgment lien.

For purposes of paragraph (a)(2) of this section, the dates described in paragraphs (a)(2) (i) and (ii) of this section shall be determined without regard to any rule or principle of local law which permits the relation back or the making of any requisite action retroactive to a date earlier than the date on which the action is actually performed. For purposes of paragraph (a) of this section, a judgment lien is a lien held by a judgment lien creditor as defined in paragraph (g) of this section.

(3) *Money or money's worth*. For purposes of paragraph (a) of this section, the term "money or money's worth" includes money, a security (as defined in paragraph (d) of this section), tangible or intangible property, services,

and other consideration reducible to a money value. Money or money's worth also includes any consideration which otherwise would constitute money or money's worth under the preceding sentence which was parted with before the security interest would otherwise exist if, under local law, past consideration is sufficient to support an agreement giving rise to a security interest. A relinquishing or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights is not a consideration in money or money's worth. Nor is love and affection, promise of marriage, or any other consideration not reducible to a money value a consideration in money or money's worth.

(4) *Holder of a security interest.* For purposes of paragraph (a) of this section, the holder of a security interest is the person in whose favor there is a security interest. For provisions relating to the treatment of a purchaser of commercial financing security as a holder of a security interest, see §70.232(e) of this part.

(b) *Mechanic's lienor.* The term *mechanic's lienor* means any person who under local law has a lien on real property (or on the proceeds of a contract relating to real property) for services, labor, or materials furnished in connection with the construction or improvement (including demolition) of the property. A mechanic's lienor is treated as having a lien on the later of:

(1) The date on which the mechanic's lien first becomes valid under local law against subsequent purchasers of the real property without actual notice, or

(2) The date on which the mechanic's lienor begins to furnish the services, labor, or materials.

(c) *Motor vehicle.* (1) The term *motor vehicle* means a self-propelled vehicle which is registered for highway use under the laws of any State, the District of Columbia, or a foreign country.

(2) A motor vehicle is "registered for highway use" at the time of a sale if immediately prior to the sale it is so registered under the laws of any State, the District of Columbia, or a foreign country. Where immediately prior to the sale of a motor vehicle by a dealer, the dealer is permitted under local law

to operate it under a dealer's tag, license, or permit issued to the dealer, the motor vehicle is considered to be registered for highway use in the name of the dealer at the time of the sale.

(d) *Security.* The term *security* means any bond, debenture, note, or certificate or other evidence of indebtedness, issued by a corporation or a government or political subdivision thereof, with interest coupons or in registered form, share of stock, voting trust certificate, or any certificate of interest or participation in, certificate of deposit or receipt for, temporary or interim certificate for, or warrant or right to subscribe to or purchase, any of the foregoing; negotiable instrument; or money.

(e) *Tax lien filing.* The term *tax lien filing* means the filing of notice of the lien imposed by 26 U.S.C. 6321 in accordance with §70.148 of this part.

(f) *Purchaser*—(1) *In general.* The term *purchaser* means a person who, for adequate and full consideration in money or money's worth (as defined in paragraph (f)(3) of this section), acquires an interest (other than a lien or security interest) in property which is valid under local law against subsequent purchasers without actual notice.

(2) *Interest in property.* For purposes of paragraph (f) of this section, each of the following interests is treated as an interest in property, if it is not a lien or security interest:

(i) A lease of property.

(ii) A written executory contract to purchase or lease property.

(iii) An option to purchase or lease property and any interest therein, or

(iv) An option to renew or extend a lease of property.

(3) *Adequate and full consideration in money or money's worth.* For purposes of paragraph (f) of this section, the term "adequate and full consideration in money or money's worth" means a consideration in money or money's worth having a reasonable relationship to the true value of the interest in property acquired. See paragraph (a)(3) of this section for definition of the term "money or money's worth." Adequate and full consideration in money or

(1) Any interest or carrying charges (including finance, service, and similar charges) upon the obligation secured.

(2) The reasonable charges and expenses of an indenture trustee (including, for example, the trustee under a deed of trust) or agent holding the security interest for the benefit of the holder of the security interest.

(3) The reasonable expenses, including reasonable compensation for attorneys, actually incurred in collecting or enforcing the obligation secured.

(4) The reasonable costs of insuring, preserving, or repairing the property to which the lien or security interest relates.

(5) The reasonable costs of insuring payment of the obligation secured (including amounts paid by the holder of the security interest for mortgage insurance, such as that issued by the Federal Housing Administration), and

(6) Amounts paid to satisfy any lien on the property to which the lien or security interest relates, but only if the lien so satisfied is entitled to priority over the lien imposed by 26 U.S.C. 6321.

(b) *Collection expenses.* The reasonable expenses described in paragraph (a)(3) of this section include expenditures incurred by the protected holder of the lien or security interest to establish the priority of the holder's interest or to collect, by foreclosure or otherwise, the amount due the holder from the property subject to the protected holder's lien. Accordingly, the amount of the encumbrance which is protected is increased by the amounts so expended by the holder of the security interest.

(c) *Costs of insuring, preserving, etc.* The reasonable costs of insuring, preserving, or repairing described in paragraph (a)(4) of this section include expenditures by the holder of a security interest for fire and casualty insurance on the property subject to the security interest and amounts paid by the holder of the lien or security interest to repair the property. Such reasonable costs also include the amounts paid by the holder of the lien or security interest in a leasehold to the lessor of the leasehold to preserve the leasehold subject to the lien or security interest. Accordingly, the amount of the lien or security interest which is protected is increased by the amounts so expended by

the holder of the lien or security interest.

(d) *Satisfaction of liens.* The amounts described in paragraph (a)(6) of this section include expenditures incurred by the protected holder of a lien or security interest to discharge a statutory lien for State sales taxes on the property subject to the lien or security interest if both the lien or security interest and the sales tax lien have priority over a Federal tax lien. Accordingly, the amount of the lien or security interest is increased by the amounts so expended by the holder of the lien or security interest even though under local law the holder of the lien or security interest is not subrogated to the rights of the holder of the State sales tax lien. However, if the holder of the lien or security interest is subrogated, within the meaning of §70.144(b) of this part, to the rights of the holder of the sales tax lien, the holder of the lien or security interest will also be entitled to any additional protection afforded by 26 U.S.C. 6323(i)(2)

(26 U.S.C. 6323).

§ 70.148 Place for filing notice; form. ←

(a) *Place for filing.* The notice of lien referred to in §70.145 of this part shall be filed as follows:

(1) *Under State laws—(i) Real property.* In the case of real property, notice shall be filed in one office within the State (or the county or other governmental subdivision), as designated by the laws of the State, in which the property subject to the lien is deemed situated under the provisions of paragraph (b)(1) of this section.

(ii) *Personal property.* In the case of personal property, whether tangible or intangible, the notice shall be filed in one office within the State (or the county or other governmental subdivision), as designated by the laws of the State, in which the property subject to the lien is deemed situated under the provision of paragraph (b)(2) of this section, except that State law merely conforming to or reenacting Federal law establishing a national filing system does not constitute a second office for filing as designated by the laws of such State.

(2) *With the clerk of the United States district court.* Whenever a State has not

by law designated one office which meets the requirements of paragraph (a)(1) (i) or (ii) of this section, the notice shall be filed in the office of the clerk of the U.S. district court for the judicial district in which the property subject to the lien is deemed situated under the provisions of paragraph (b) of this section. For example, a State has not by law designated one office meeting the requirements of paragraph (a)(1)(i) of this section, if more than one office is designated within the State, county, or other governmental subdivision for filing notices with respect to all property located in such State, county or other governmental subdivision. A State has not by law designated one office meeting the requirements of paragraph (a)(1)(ii) of this section, if more than one office is designated in the State, county, or other governmental subdivision for filing notices with respect to all of the personal property of a particular taxpayer.

→ (3) *With the Recorder of Deeds of the District of Columbia.* If the property subject to the lien imposed by 26 U.S.C. 6321 is deemed situated, under the provision of paragraph (b) of this section, in the District of Columbia, the notice shall be filed in the office of the Recorder of Deeds of the District of Columbia.

(b) *Situs of property subject to lien.* For purposes of paragraph (a) of this section, property is deemed situated as follows:

(1) *Real property.* Real property is deemed situated at its physical location.

(2) *Personal property.* Personal property, whether tangible or intangible, is deemed situated at the residence of the taxpayer at the time the notice of lien is filed.

For purposes of paragraph (b)(2) of this section, the residence of a corporation or partnership is deemed to be the place at which the principal executive office of the business is located, and the residence of a taxpayer whose residence is not within the United States is deemed to be in the District of Columbia.

→ (c) *Form—(1) In general.* The notice referred to in §70.145 of this part shall be filed on ATF Form 5651.2, "Notice of

Federal Tax Lien under Internal Revenue Laws". Such notice is valid notwithstanding any other provision of law regarding the form or content of a notice of lien. For example, omission from the notice of lien of a description of the property subject to the lien does not affect the validity thereof even though State law may require that the notices contain a description of the property subject to the lien.

(2) *ATF Form 5651.2 defined.* The term "ATF Form 5651.2" generally means a paper form. However, if a State in which a notice referred to in §70.145 of this part is filed permits a notice of Federal tax lien to be filed by the use of an electronic or magnetic medium the term "ATF Form 5651.2" includes an ATF Form 5651.2 filed by the use of any electronic or magnetic medium permitted by that State. An ATF Form 5651.2 must identify the taxpayer, the tax liability giving rise to the lien, and the date the assessment arose regardless of the method used to file the notice of Federal tax lien.

(26 U.S.C. 6323)

§ 70.149 Refiling of notice of tax lien.

(a) *In general—(1) Requirement to refile.* In order to continue the effect of a notice of lien, the notice must be refiled in the place described in paragraph (b) of this section during the required refiling period (described in paragraph (c) of this section). In the event that two or more notices of lien are filed with respect to a particular tax assessment, the failure to comply with the provision of paragraphs (b)(1) (i) and (c) of this section in respect of one of the notices of lien does not affect the effectiveness of the refiling of any other notice of lien. Except for the filing of a notice of lien required by paragraph (b)(1)(ii) of this section (relating to a change of residence), the validity of any refiling of a notice of lien is not affected by the refiling or nonrefiling of any other notice of lien.

(2) *Effect of refiling.* A timely refiled notice of lien is effective as of the date on which the notice of lien to which it relates was effective.

(3) *Effect of failure to refile.* Except as provided below, if the Chief, Tax Processing Center or the regional director (compliance) fails to refile a notice of

FOIA Request

- A. This section assumes that you have a lien problem. We have included some more FOIA request for you to use. (Definition: Assume – To Pretend. Blacks Law Dictionary, Fourth Edition)
- B. These requests are self-explanatory. Carefully read through them and fill them out correctly.
- C. If exhibits go with the FOIA request make sure you have attached them.
- D. Keep your FOIA request's in chronological order by date with each request in it's own file folder.
- E. Try to make sure you do not ask for more than 3 years at a time as you can always do another FOIA request for another 3 years.
- F. Try to keep each request simple by asking for one specific record at a time.
- G. You only need to use one First Class Stamp to send in the FOIA request. They do not need to be sent by certified mail.

FREEDOM OF INFORMATION ACT REQUEST

TO:

Disclosure Officer
Internal Revenue Service
(local disclosure officer address)
(local disclosure officer address)

FROM: name
addr1
addr2

Account # (SS#)

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 reasonably segregable. I am waiving personal inspection of the requested records.
3. This request pertains to the years:
4. BACKGROUND: Exhibit A, 1 of 1, Form 668-F, Notice of Federal Tax Lien under Internal Revenue Laws, Part 2 to be signed and returned to the Internal Revenue Service.
5. Please send Requester a copy of Internal Revenue Service Form 668-F, part 2, which pertains to the Requester.
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, Requester

Department of the Treasury - Internal Revenue Service
Notice of Federal Tax Lien
Under Internal Revenue Laws

District	Serial number	<i>For Optional Use by Recording Office</i>
<p>As provided by sections 6321, 6322, and 6323 of the Internal Revenue Code, notice is given that taxes (including interest and penalties) have been assessed against the following-named taxpayer. Demand for payment of this liability has been made, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.</p>		
Name of taxpayer		
Residence		

Kind of Tax (a)	MFT (b)	Tax Period Ended (c)	Date of Assessment (d)	Identifying Number (e)	Unpaid Balance of Assessment (f)
THIS FORM IS FOR INTERNAL USE ONLY. DO NOT FILE.					

Place of filing	Total ▶ \$
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Notice of Federal Tax Lien Refiling

IRS serial number _____ Recorder's identification number _____

Notice filed with _____ Date _____

Taxpayer's address (if different than shown above) _____

Signature _____ Title _____

This notice was prepared and signed at _____

on this the _____ day of _____, 19 _____

Signature _____ Title _____

Note: Certificate of officer authorized by law to take acknowledgments is not essential to the validity of Notice of Federal Tax Lien. Rev. Rul. 71-466, 1971-2 C.B. 409.

Part 2 - To be signed and returned to the Internal Revenue Form 668-F (Rev. 2-85)



Exhibit A 1 of 1

FREEDOM OF INFORMATION ACT REQUEST

TO:

Disclosure Officer
Internal Revenue Service
(local disclosure officer address)
(local disclosure officer address)

FROM: name
addr1
addr2

Account # (SS#)

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: Exhibit A, 18 USC 3613, page 2 of 3, paragraph (c) Application of other lien provisions.
5. Please send me a copy of all documents approving those regulations prescribed **by** the Attorney General relevant to 18 USC 3613, which pertain to this requester.
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, Requester

quent. The Attorney General may waive all or part of the penalty for good cause.

(Added Pub.L. 98-473, Title II, § 212(a)(2), Oct. 12, 1984, 98 Stat. 2004.)

¹ Another section 3612 is set out in chapter 229 post.

Historical Note

Effective Date. See note set out preceding section 3601 of this title.

Notice to Pay Fine in Full or by Installment. Section 237 of Pub.L. 98-473 provided:

“(a)(1) Except as provided in paragraph (2), for each criminal fine for which the unpaid balance exceeds \$100 as of the effective date of this Act [see section 235 of Pub.L. 98-473 set out as a note under section 3551 of this title], the Attorney General shall, within one hundred and twenty days, notify the person by certified mail of his obligation, within thirty days after notification, to—

“(A) pay the fine in full;

“(B) specify, and demonstrate compliance with, an installment schedule established by a court before enactment of the amendments made by this Act [the Sentencing Reform Act of 1984 (Pub.L. 98-473, Title II, c. II)], specifying the dates on which designated partial payments will be made; or

“(C) establish with the concurrence of the Attorney General, a new installment schedule of a duration not exceeding two

years, except in special circumstances, and specifying the dates on which designated partial payments will be made.

“(2) This subsection shall not apply in cases in which—

“(A) the Attorney General believes the likelihood of collection is remote; or

“(B) criminal fines have been stayed pending appeal.

“(b) The Attorney General shall, within one hundred and eighty days after the effective date of this Act, declare all fines for which this obligation is unfulfilled to be in criminal default, subject to the civil and criminal remedies established by amendments made by this Act. No interest or monetary penalties shall be charged on any fines subject to this section.

“(c) Not later than one year following the effective date of this Act, the Attorney General shall include in the annual crime report steps taken to implement this Act and the progress achieved in criminal fine collection, including collection data for each judicial district.”

§ 3613.¹ Civil remedies for satisfaction of an unpaid fine

(a) **Lien.**—A fine imposed pursuant to the provisions of subchapter C of chapter 227 is a lien in favor of the United States upon all property belonging to the person fined. The lien arises at the time of the entry of the judgment and continues until the liability is satisfied, remitted, or set aside, or until it becomes unenforceable pursuant to the provisions of subsection (b). On application of the person fined, the Attorney General shall—

(1) issue a certificate of release, as described in section 6325 of the Internal Revenue Code, of any lien imposed pursuant to this section, upon his acceptance of a bond described in section 6325(a)(2) of the Internal Revenue Code; or

(2) issue a certificate of discharge, as described in section 6325 of the Internal Revenue Code, of any part of the person's property subject to a lien imposed pursuant to this section, upon his determination that the fair market value of that part of such property remaining subject to and available to satisfy the lien is at least three times the amount of the fine.

(b) **Expiration of lien.**—A lien becomes unenforceable and liability to pay a fine expires—

- (1) twenty years after the entry of the judgment; or
- (2) upon the death of the individual fined.

The period set forth in paragraph (1) may be extended, prior to its expiration, by a written agreement between the person fined and the Attorney General. The running of the period set forth in paragraph (1) is suspended during any interval for which the running of the period of limitations for collection of a tax would be suspended pursuant to section 6503(b), 6503(c), 6503(f), 6503(i), or 7508(a)(1)(I) of the Internal Revenue Code of 1954 (26 U.S.C. 6503(b), 6503(c), 6503(f), 6053(i), or 7508(a)(1)(I)), or section 513 of the Act of October 17, 1940, 54 Stat. 1190.

(c) Application of other lien provisions.—The provisions of sections 6323, 6331, 6332, 6334 through 6336, 6337(a), 6338 through 6343, 6901, 7402, 7403, 7424 through 7426, 7505(a), 7506, 7701, and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 6323, 6331, 6332, 6334 through 6336, 6337(a), 6338 through 6343, 6901, 7402, 7403, 7424 through 7426, 7505(a), 7506, 7701, and 7805) and of section 513 of the Act of October 17, 1940, 54 Stat. 1190, apply to a fine and to the lien imposed by subsection (a) as if the liability of the person fined were for an internal revenue tax assessment, except to the extent that the application of such statutes is modified by regulations issued by the Attorney General to accord with differences in the nature of the liabilities. For the purposes of this subsection, references in the preceding sections of the Internal Revenue Code of 1954 to “the Secretary” shall be construed to mean “the Attorney General,” and references in those sections to “tax” shall be construed to mean “fine.”

(d) Effect of notice of lien.—A notice of the lien imposed by subsection (a) shall be considered a notice of lien for taxes payable to the United States for the purposes of any State or local law providing for the filing of a notice of a tax lien. The registration, recording, docketing, or indexing, in accordance with 28 U.S.C. 1962, of the judgment under which a fine is imposed shall be considered for all purposes as the filing prescribed by section 6323(f)(1)(A) of the Internal Revenue Code of 1954 (26 U.S.C. 6323(f)(1)(A)) and by subsection (c).

(e) Alternative enforcement.—Notwithstanding any other provision of this section, a judgment imposing a fine may be enforced by execution against the property of the person fined in like manner as judgments in civil cases, but in no event shall liability for payment of a fine extend beyond the period specified in subsection (b).

(f) Discharge of debts inapplicable.—No discharge of debts pursuant to a bankruptcy proceeding shall render a lien under this section unenforceable or discharge liability to pay a fine.

(Added Pub.L. 98-473, Title II, § 212(a)(2), Oct. 12, 1984, 98 Stat. 2005.)

¹ Another section 3613 is set out in chapter 229 post.

Historical Note

References in Text. The Internal Revenue Code of 1954, referred to in subsecs. (a) to (d), is classified generally to Title 26, Internal Revenue Code.

Section 513 of the Act of October 17, 1940, 54 Stat. 1190, referred to in subsecs. (b) and (c), is section 513 of Act Oct. 17, 1940, c.

888, 54 Stat. 1190, which is classified to section 573 of the Appendix to Title 50, War and National Defense. **Effective Date.** See note set out preceding section 3601 of this title.

§ 3614.¹ Resentencing upon failure to pay a fine

(a) **Resentencing.**—Subject to the provisions of subsection (b), if a defendant knowingly fails to pay a delinquent fine the court may resentence the defendant to any sentence which might originally have been imposed.

(b) **Imprisonment.**—The defendant may be sentenced to a term of imprisonment under subsection (a) only if the court determines that—

(1) the defendant willfully refused to pay the delinquent fine or had failed to make sufficient bona fide efforts to pay the fine; or

(2) in light of the nature of the offense and the characteristics of the person, alternatives to imprisonment are not adequate to serve the purposes of punishment and deterrence.

(Added Pub.L. 98-473, Title II, § 212(a)(2), Oct. 12, 1984, 98 Stat. 2006.)

¹ Another section 3614 is set out in chapter 229 post.

Historical Note

Effective Date. See note set out preceding section 3601 of this title.

§ 3615.¹ Criminal default

Whoever, having been sentenced to pay a fine, willfully fails to pay the fine, shall be fined not more than twice the amount of the unpaid balance of the fine or \$10,000, whichever is greater, imprisoned not more than one year, or both.

(Added Pub.L. 98-473, Title II, § 212(a)(2), Oct. 12, 1984, 98 Stat. 2006.)

¹ Another section 3615 is set out in chapter 229 post.

Historical Note

Effective Date. See note set out preceding section 3601 of this title.

Code of Federal Regulations

Authority of enforcement officers of Bureau of Alcohol, Tobacco and Firearms. see 27 CFR 70.28.

Labeling requirements; shipments, see 19 CFR 12.38.

SUBCHAPTER C—IMPRISONMENT

Sec.

3621. Imprisonment of a convicted person.

3622. Temporary release of a prisoner.

3623. Transfer of a prisoner to State authority.

FREEDOM OF INFORMATION ACT REQUEST

TO:

United States Department of Justice
Melanie Ann Pustay, Deputy Director
Suite 570, Flag Building
Washington, DC 20530

FROM: name

addr1

addr2

Account # (SS#)

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: Exhibit A, 18 USC 3613, page 2 of 3, paragraph (c), Application of other lien provisions.
5. Please send me a copy of all documents approving those regulations prescribed by the Attorney General relevant to 18 USC 3613, which pertain to this requester.
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, Requester

quent. The Attorney General may waive all or part of the penalty for good cause.

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“(A) pay the fine in full;

“(B) specify, and demonstrate compliance with, an installment schedule established by a court before enactment of the amendments made by this Act [the Sentencing Reform Act of 1984 (Pub.L. 98-473, Title II, c. II)], specifying the dates on which designated partial payments will be made; or

“(C) establish with the concurrence of the Attorney General, a new installment schedule of a duration not exceeding two

years, except in special circumstances, and specifying the dates on which designated partial payments will be made.

“(2) This subsection shall not apply in cases in which—

“(A) the Attorney General believes the likelihood of collection is remote; or

“(B) criminal fines have been stayed pending appeal.

“(b) The Attorney General shall, within one hundred and eighty days after the effective date of this Act, declare all fines for which this obligation is unfulfilled to be in criminal default, subject to the civil and criminal remedies established by amendments made by this Act. No interest or monetary penalties shall be charged on any fines subject to this section.

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(b) On application of the person fined, the Attorney General shall—

(1) issue a certificate of release, as described in section 6325 of the Internal Revenue Code, of any lien imposed pursuant to this section, upon his acceptance of a bond described in section 6325(a)(2) of the Internal Revenue Code; or

(2) issue a certificate of discharge, as described in section 6325 of the Internal Revenue Code, of any part of the person's property subject to a lien imposed pursuant to this section, upon his determination that the fair market value of that part of such property remaining subject to and available to satisfy the lien is at least three times the amount of the fine.

(b) **Expiration of lien.**—A lien becomes unenforceable and liability to pay a fine expires—

- (1) twenty years after the entry of the judgment; or
- (2) upon the death of the individual fined.

The period set forth in paragraph (1) may be extended, prior to its expiration, by a written agreement between the person fined and the Attorney General. The running of the period set forth in paragraph (1) is suspended during any interval for which the running of the period of limitations for collection of a tax would be suspended pursuant to section 6503(b), 6503(c), 6503(f), 6503(i), or 7508(a)(1)(I) of the Internal Revenue Code of 1954 (26 U.S.C. 6503(b), 6503(c), 6503(f), 6053(i), or 7508(a)(1)(I)), or section 513 of the Act of October 17, 1940, 54 Stat. 1190.



(c) Application of other lien provisions.—The provisions of sections 6323, 6331, 6332, 6334 through 6336, 6337(a), 6338 through 6343, 6901, 7402, 7403, 7424 through 7426, 7505(a), 7506, 7701, and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 6323, 6331, 6332, 6334 through 6336, 6337(a), 6338 through 6343, 6901, 7402, 7403, 7424 through 7426, 7505(a), 7506, 7701, and 7805) and of section 513 of the Act of October 17, 1940, 54 Stat. 1190, apply to a fine and to the lien imposed by subsection (a) as if the liability of the person fined were for an internal revenue tax assessment, except to the extent that the application of such statutes is modified by regulations issued by the Attorney General to accord with differences in the nature of the liabilities. For the purposes of this subsection, references in the preceding sections of the Internal Revenue Code of 1954 to “the Secretary” shall be construed to mean “the Attorney General,” and references in those sections to “tax” shall be construed to mean “fine.”

(d) Effect of notice of lien.—A notice of the lien imposed by subsection (a) shall be considered a notice of lien for taxes payable to the United States for the purposes of any State or local law providing for the filing of a notice of a tax lien. The registration, recording, docketing, or indexing, in accordance with 28 U.S.C. 1962, of the judgment under which a fine is imposed shall be considered for all purposes as the filing prescribed by section 6323(f)(1)(A) of the Internal Revenue Code of 1954 (26 U.S.C. 6323(f)(1)(A)) and by subsection (c).

(e) Alternative enforcement.—Notwithstanding any other provision of this section, a judgment imposing a fine may be enforced by execution against the property of the person fined in like manner as judgments in civil cases, but in no event shall liability for payment of a fine extend beyond the period specified in subsection (b).

(f) Discharge of debts inapplicable.—No discharge of debts pursuant to a bankruptcy proceeding shall render a lien under this section unenforceable or discharge liability to pay a fine.

(Added Pub.L. 98-473, Title II, § 212(a)(2), Oct. 12, 1984, 98 Stat. 2005.)

¹ Another section 3613 is set out in chapter 229 post.

Historical Note

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Exhibit A 2 of 3

888, 54 Stat. 1190, which is classified to section 573 of the Appendix to Title 50, War and National Defense. **Effective Date.** See note set out preceding section 3601 of this title.

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(b) **Imprisonment.**—The defendant may be sentenced to a term of imprisonment under subsection (a) only if the court determines that—

(1) the defendant willfully refused to pay the delinquent fine or had failed to make sufficient bona fide efforts to pay the fine; or

(2) in light of the nature of the offense and the characteristics of the person, alternatives to imprisonment are not adequate to serve the purposes of punishment and deterrence.

(Added Pub.L. 98-473, Title II, § 212(a)(2), Oct. 12, 1984, 98 Stat. 2006.)

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Historical Note

Effective Date. See note set out preceding section 3601 of this title.

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(Added Pub.L. 98-473, Title II, § 212(a)(2), Oct. 12, 1984, 98 Stat. 2006.)

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Historical Note

Effective Date. See note set out preceding section 3601 of this title.

Code of Federal Regulations

Authority of enforcement officers of Bureau of Alcohol, Tobacco and Firearms. see 27 CFR 70.28.
Labeling requirements: shipments, see 19 CFR 12.38.

SUBCHAPTER C—IMPRISONMENT

- Sec.**
3621. Imprisonment of a convicted person.
3622. Temporary release of a prisoner.
3623. Transfer of a prisoner to State authority.

Exhibit A 3 of 3

FREEDOM OF INFORMATION ACT REQUEST

TO:

Disclosure Officer
Internal Revenue Service
(local disclosure officer address)
(local disclosure officer address)

FROM: name
addr1
addr2

Account # (SS#)

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 reasonably segregable. I am waiving personal inspection of the requested records.
3. This request pertains to the years:
4. BACKGROUND: Exhibit A, 1 of 1, 301.6305-1(b)(4)(ii), "The district director or his delegate shall make a diligent and reasonable efforts to collect certified amounts as if such amounts were taxes."
5. Please send Requester a copy of the certified amount that I owe on the proper IRS form used for this certification process, which pertains to the Requester.
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, Requester

assessment will not be used as a substitute for an additional assessment against an individual.

(4) *Method of collection.* (i) The district director or his delegate shall make notice and demand for immediate payment of certified amounts. Upon failure or refusal to pay such amounts, collection by levy shall be lawful without regard to the 10-day waiting period provided in section 6331(a). However, in the case of certain first assessments, paragraph (c)(4) of this section provides a rule for a stay of collection for 60 days. For purposes of collection, refunds of any internal revenue tax owed to the individual may be offset against a certified amount.

(ii) The district director or his delegate shall make diligent and reasonable efforts to collect certified amounts as if such amounts were taxes. He shall have no authority to compromise a proceeding by collection of only part of a certified amount in satisfaction of the full certified amount owing. However, he may arrange for payment of a certified amount by installments where advisable.

(iii) The district director or his delegate may offset the amount of any overpayment of any internal revenue tax (as described in section 301.6401-1) to be refunded to the person making the overpayment by the amount of any past-due support (as defined in the regulations under section 6402) owed by the person making the overpayment. The amounts offset under section 6402(c) may be amounts of child and spousal support certified (or recertified) for collection under section 6305 and this section or they may be amounts of past-due support of which the Secretary of the Treasury has been notified under section 6402(c) and the regulations under that section.

(5) *Credits or refunds.* In the case of any overpayment of a certified amount, the Secretary of the Treasury or his delegate, within the period of limitations for credit or refund of employment taxes, may credit the amount of the overpayment against any liability in respect of an internal revenue tax on the part of the individual who made the overpayment and shall refund any balance to the indi-

vidual. However, the full amount of any overpayment collected by levy upon property described in paragraph (c)(2) (i), (ii), or (iii) of this section shall be refunded to the individual. For purposes of applying this subparagraph, the rules of §301.6402-2 apply where appropriate.

(6) *Disposition of certified amounts collected.* Any certified amount collected shall be deposited in the general fund of the United States, and the officer of the Department of Health and Human Services who certified the amount shall be promptly notified of its collection. There shall be established in the Treasury, pursuant to section 452 of title IV of the Social Security Act as amended, a revolving fund which shall be available to the Secretary of Health and Human Services or his delegate, without fiscal year limitation, for distribution to the States in accordance with the provisions of section 457 of the Act. Section 452(c)(2) of the Act appropriates to this revolving fund out of any monies not otherwise appropriated, amounts equal to the certified amounts collected under this paragraph reduced by the amounts credited or refunded as overpayments of the certified amounts so collected. The certified amounts deposited shall be transferred at least quarterly from the general fund of the Treasury to the revolving fund on the basis of estimates made by the Secretary of the Treasury or his delegate. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred. See, however, paragraph (c)(1) of this section for the special rule requiring retention in the general fund of certain penalties which may be collected.

(c) *Additional limitations and conditions—*(1) *Interest and penalties.* No interest, penalties or additional amounts, other than normal and reasonable collection costs, may be assessed or collected in addition to the certified amount, other than the penalty imposed by section 6332(c)(2) for failure to surrender property subject to levy and the penalty imposed by section 6657 for the tender of bad checks. Any such penalties and collection costs, if collected, will not be treated

FREEDOM OF INFORMATION ACT REQUEST

TO:

Disclosure Officer
Internal Revenue Service
(local district address)
(local district address)

FROM: 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 reasonably segregable. I am waiving personal inspection of the requested records.
3. This request pertains to the years:
4. Please send me a copy of all files being maintained in the "Integrated Collection System," which is maintained by the IRS, which pertains to a lien or levy and pertains to this requester.
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, Requester

Conclusion

- A. A tax lien arises when three events have happened.
 - 1. A valid tax assessment has been made.
 - 2. The taxpayer has been given notice of the assessment stating the amount and demanding its payment.
 - 3. The taxpayer has failed to pay the amount assessed within ten days after the notice and demand.
- B. When these three events have actually occurred, the tax lien that arises is enforceable.
- C. There can be no valid lien or valid levy when no Notice of Assessment has been given to the “Taxpayer.”
- D. Failure to send a notice and demand nullifies the assessment and any action the service may have attempted to collect the amount assessed.
- E. No lien can arise nor can a levy be effective absent a notice and demand.
- F. The IRS may try to justify sending a Notice of Levy to a company or bank, which is an action not authorized by the code, or regulations.
 - 1. If challenged the IRS will claim that such tactics are necessary to collect taxes that are owed.
- G. The only authority that the IRS can claim to have, to make an assessment of “income tax”, is provided in section 6201(a)(1).
- H. Section 6201(a)(1) authorizes the assessment of taxes shown on a return.
- I. If no return is made, the IRS has no grounds what so ever to claim authority to make assessment of the tax on “taxable income” imposed by section 1 of the IR code.
- J. The only authority that the IRS can claim to have to make an assessment of “income taxes” is in 26 USC section 6201(a)(1).

1. That section authorizes the assessment of taxes shown on a return.
 2. If no return is made the IRS has no authority to make an assessment.
- K. The IRS must create false records in your file in order to justify their sending of notices, letters, and assessments if you have not filed a return.
- L. The IRS will do a SFR for you if you have not filed a return using 26 USC 6020 (b) as their authority.
1. Unfortunately for the IRS their own manuals require agents reviewing forms executed under 6020(b) to certify the accuracy of the dollar amounts shown on them, by signing and inscribing the returns were prepared under the authority of 6020(b).
 2. You will find these phony SFR returns are lacking any dollar amounts, no signatures, and no handwritten or rubber stamped notices as required.
- M. There must be a valid assessment and proper procedures must be followed before collection actions are legally authorized.
- N. USC Title 26 7214, includes criminal penalties for any IRS agent “Who knowingly demands other or greater sums than are authorized by law or who makes or ~~signs~~ any fraudulent entry in any book or makes or ~~signs~~ any fraudulent certificate, return, or statement.
- O. How do you gather the evidence against them that is specific to you?
- P. You might also want to order #181, The IRS Lien Manual on our literature list for their interpretation about a lien.

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